

IJA COORDINATORS MEETING**SEPTEMBER 22-23, 1997**

WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA
6951 Westminster Highway
Richmond, BC
4th Floor Boardroom

Attendance:

Brenda Croucher, AWCBC
Maggie Fernandez, Alberta
Curtis Forbes, Alberta
Ed Bates, British Columbia
Pam Cohen, British Columbia
Joe Pinto, British Columbia
Jay Rowland, British Columbia
Lori Ferguson-Sain, Manitoba

Richard Tingley, New Brunswick
Trevor Alexander, Northwest Territories
Katherine Crosby, Newfoundland
Janet Curry, Nova Scotia
Terry Dunsford, Prince Edward Island
Pascal Beaulieu, Quebec
Sophie Genest, Quebec
Terry Brown, Saskatchewan
Sheila Lilles, Yukon

Absent:

Paul Holyoke, Ontario

Minutes:**1. Introductory Remarks:**

Welcome to Committee members and additional BC representatives, Joe Pinto (Policy Director) and Jay Rowland (Client Service Manager, Occupational Disease).

Review of general housekeeping / safety procedures while in the 4th floor boardroom.

Announcement that Nina Sutherland will be replacing Tony Armstrong, as Acting Director of Corporate Services (Yukon). Rob Campbell is now Director of Assessments (Manitoba).

Review of agenda and addition of further topics to be discussed: contact list, specific case, future issues.

2. Review of Previous Minutes:

Review of minutes and action items from prior meeting in Montreal, April 14-15, 1997.

3. Business Arising out of Previous Minutes:

Election forms: When sending election forms to advise other boards of worker's choice, ensure

that forms are sent to the IJ Coordinator, unless a specific adjudication representative is known.

Action point re. 10.3 & 10.4 of the Agreement will be discussed under agenda item #6.

Meeting minutes adopted.

4. Outcome of Heads of Delegations Meeting - July 1, 1997

Trucking Agreement:

(Handout) - IJA Trucking Subcommittee memo of September 19, 1997 from Bud DuGas, outlining results of their meeting in Quebec City, September 15, 1997. The handout includes a letter from Graham Cooper (Acting General Manager, Canadian Trucking Association), dated September 10, 1997.

Seven (7) jurisdictions are able to go forward with the Agreement, as written. Others have limited their participation. The Subcommittee has put forward three (3) recommendations:

1. Extend Agreement beyond December 31, 1997, with the understanding that some jurisdictions may place restrictions on participation and other jurisdictions will not participate with those jurisdictions.
2. The extension would be for two (2) years.
3. Jurisdictions who are limiting their participation are to state their final positions, which will reflect an explanation that all alternatives have been explored. The deadline for this statement will be October, 1998. However, current implementation, with limitations, comes into effect January 1, 1998, except Ontario, where limitations have already taken effect.

Review and discussion of IJ Trucking Agreement Survey (September 17, 1997) :

Column #4 of survey/chart asks whether jurisdictions will readjudicate claims. In the cases of "yes" answers from PEI and the Yukon, this was a semantics issue, with the "yes" answer reflecting "to the extent of their maximums". Therefore, the "yes" will be changed to "no". In Alberta's case, Curtis Forbes indicated that Alberta will change their answer to "no", in order to facilitate implementation, and in the spirit of cooperation. As a result, it was decided to eliminate box #4 from the chart.

It was suggested that Bud DuGas (IJ Trucking Subcommittee Chair) join the group, to provide further insight into the salient issues of his group's recent meeting. Bud explained why jurisdictions who intend to limit their participation, have been asked to provide a final statement of their intent by October, 1998. Bud also confirmed that the extension of the Agreement, with current limitations, would take effect January 1, 1998. Bud was advised of the changes in answers to the readjudication issue in column #4 of the survey, affecting PEI, Yukon, & Alberta.

There have been no volunteers from the Trucking Subcommittee, to replace Bud DuGas, as

Chair. The current Chair is, therefore, recommending that the Heads of Delegations appoint a new Chair, and that this person be from a fully participating Board, and that the person be selected from the existing members of the IJ Trucking Subcommittee.

Amended Agreement on Section 7 (address Ontario's issues):

There is agreement from the group, that this Committee wants to continue to work on the principles of the IJA. It was also agreed that there are a number of things in the Agreement which are currently working well, particularly benefits in kind and cost reimbursement.

Alberta, BC, New Brunswick, Quebec, and Saskatchewan, remain unsigned re. the amended Section 7. The next Head's meeting is November 27, 1997, and Brenda will be able to get signatures at that time, from Alberta, New Brunswick, and Saskatchewan. BC and Quebec may not be able to sign on that date, due to the lengthy internal and/or government processes required for approval.

After much discussion surrounding the resolution of "Ontario's issues", it was decided that the jurisdictions who had not submitted answers to Paul Holyoke's survey of July 29, 1997, would complete Brenda's copy of the survey results of August 29, 1997, while we were at the table. It was noted that some of Ontario's issues were more globally related to the general IJA and administrative issues. On the important issues concerning the implementation of the amended Section 7, jurisdictions have reached consensus. It was therefore decided that Ontario would be advised of this outcome. Ontario will be asked whether any further changes would be necessary in order for them to participate in the implementation of the amended section 7.

ACTION: Brenda will draft a letter to Ontario regarding the above. She will be attending the Executive meeting in two (2) weeks, and the completed summary chart regarding Ontario's concerns and jurisdictions' completed responses will be presented. The chart will also be presented to the Heads at their next meeting in November, in order to meet our obligation to them, as directed in their last meeting in July, 1997.

5. National Adjudication Manual for Occupational Disease Claims- confirmation and consideration of utilizing as final document:

HANDOUT: National Adjudication Manual for Occupational Disease Claims (Nov./96)

HANDOUT: Trevor Alexander's letter of May 20, 1997.

Discussion lead by Trevor, noting that Ontario had done a formidable job in the preparation of the manual, although there is still some fine-tuning to be done (i.e. definition of a Section 7 claim would include all occupational disease claims, including those in which there would be no reimbursement consideration, due to the ability of one jurisdiction being able to accept the whole of the claim).

It was agreed that the Manual would be adopted in its current form. Changes would take place at a later time, and as needed.

ACTION: Brenda will advise Heads of the above.

6. Review of Re-formatted Interjurisdictional Agreement & Confirmation of Requirement to Revise the Interjurisdictional Agreement:

HANDOUT: Interjurisdictional Agreement on Workers' Compensation (Revised: Aug.29/97)

After considerable discussion, it was determined that no changes should be made to the Amending Agreement at this time, since most Heads have already signed the document in its present form. Much of the discussion involved the legalities surrounding amendments to documents, and appropriate protocol and formatting.

ACTION: Brenda will have the formatting and font of the Amending Agreement cleaned up, for consistency, with no substantive changes. The contact lists will be removed, and kept separate from the Agreement. To this end, Brenda has agreed to maintain the updated contact lists on annual basis, or as needed. After the Heads meeting, the Committee members will be sent a new contact list (proposed by Katherine Crosby), and they will be asked to fill in the appropriate contact person, in the following categories (noting that, for some Boards, the contact person will be the same for all categories). See item 12 in minutes for details.

Review of proposed amendments, as outlined in Agenda, noting that no changes will be made at this time. (Section 8.1 - add "upon request", Section 10.3 & 10.4 - add "total" earnings, Section 15.4 - replace "extent" to "limitations", remove contact lists).

ACTION: Pascal Beaulieu / Sophie Genest have been asked to draft the actual amendments to Sections 10.3 & 10.4, including a consistent formula which would be intended to be used by all Boards.

ACTION: Committee: prepare a "shopping list" of other amendments and minor changes, to be discussed in our next meeting.

Translation costs: Sophie Genest has again brought up the issue of translation costs being charged to the Quebec Board. We had agreed, in our last meeting, that, as a courtesy, this would not be done. In most cases, it involved billings by people who were not aware of our agreement in this regard. Sophie has proposed an amendment to Section 12.1, in which the last sentence of the section would be removed. There was no disagreement noted, so this issue may be dealt with at our next meeting, under "Amendments".

Richard Tingley has offered (pending confirmation from his Board), for New Brunswick to act as a translation "clearing house", if required.

7. Reimbursement of Capitalized Pension Costs

Pam Cohen polled each Board, to determine each jurisdiction's practice regarding reimbursement of pension costs. It has been the practice between BC and Ontario, by written agreement, that actual costs would be paid on an annual basis. It has been BC's practice, in general, to pay capitalized lump sums, if BC would have paid a lump sum, had that jurisdiction been the adjudicating Board.

Alberta has been reimbursing full capitalized costs & favour same.

Manitoba pays actual costs.

New Brunswick capitalizes loss of earnings, but pays actual costs re. dependents.

Newfoundland has not had experience in this area to date.

NWT would favour paying the full amount of capitalized costs.

Nova Scotia- uncertain

PEI would pay the full capitalized amount, if requested.

Quebec pays actual costs

Saskatchewan pays full capitalized costs (preferred), or would reimburse in the same way as the requesting Board.

Yukon has no experience, but would prefer to pay the full capitalized costs.

8. Relief of Costs:

Pam Cohen lead discussion regarding a problem which occurs due to differences in legislation between jurisdictions, when applying cost relief on a claim. The administering Board may apply cost relief at a different point than the reimbursing Board, or the reimbursing Board may determine that cost relief is not appropriate, based on their legislation. The problem occurs when the Board administering the claim advises the employer of cost relief which may or may not take place in the jurisdiction ultimately responsible for the costs of the claim. It is suggested that if cost relief is an issue on a claim in which reimbursement is going to be requested from another jurisdiction, that the employer be advised, in writing, that cost relief must be sought from the reimbursing Board. Note that the decision regarding cost relief to an employer does not affect the amount reimbursed between Boards.

9. Statistical Formatting:

HANDOUTS (Alberta):

1. Cost reimbursement statements for invoices billed and received (2 pgs.)
2. IJ claims reimbursement comparison, 1992-1997 (4 pgs.)
3. IJA invoices billed and received, appendices A-F (8 pgs.)
4. IJA monthly statistical reporting memo of Aug.29/97 (6 pgs.)
5. Billing summary - detailed analysis (41 pgs.)

Curtis Forbes and Maggie Fernandez presented the statistical reports used by Alberta, to report IJA financial information / reimbursement activity. The presentation was a thorough review of

this valuable use of available technology. The reports are done using Microsoft Excel 5.0. It is suggested, particularly for those jurisdictions with no detailed accounting system in place, that they may wish to adopt the Alberta model. In particular, the 2 cost reimbursement statements for invoices billed and invoices received should be adopted by all jurisdictions, for the semi-annual reporting of IJA statistics to the AWCBC.

ACTION (COMMITTEE): For consistency in reporting, all jurisdictions are asked to adopt the Alberta model (handout #1) in time for the Heads meeting in June/98

10. Confirmation of Contents of Report to Executive Committee and Heads of Delegations Meeting:

Brenda sought agreement from the Committee, to provide a verbal update to the Executive Committee meeting in October. The Heads will also be advised of the status of their request for jurisdictions to deal with Ontario's issues. The group agreed that a verbal update would be fine.

11. Next Meeting:

The next meeting will be held Monday & Tuesday, April 6-7, in Edmonton, Alberta. The start time on the first day of each meeting will be 9:00 a.m., and unless otherwise notified, the first day would go from 9:00 a.m. to 4:00 p.m. The second day is to start at 8:30 a.m., and based on the agenda, the group should know ahead of time, whether or not the second day is likely to run beyond noon, so that appropriate flight arrangements can be made. Thanks to Maggie and Curtis for offering to host the next meeting.

12. Contact Lists:

ACTION: (Brenda) - After the Heads meeting in November, Brenda will be sending out a list, to be completed with contact names for the following areas (noting that the same contact person may apply, for all 8 areas, in some Boards):

1. IJA Coordinator
2. Cost Reimbursement
3. Trucking
4. Benefits in kind (i.e. rehab. &/or investigative issues)
5. Section 7
6. Reimbursement / Finance
7. Medical Assessments
8. Election forms

13. Specific Case:

Sophie Genest presented a case to the group. The worker is a resident of, and usually works in Ontario. All assessments for the worker are paid in Ontario. The accident occurred in Quebec,

Ontario. All assessments for the worker are paid in Ontario. The accident occurred in Quebec,

when the client was sent to perform some repair work. The employer does have a small business in Quebec, although the 2 workers employed in Quebec are sales reps., not repairmen. The worker sustained fatal injuries and the surviving spouse claimed in Ontario. Ontario has asked Quebec for reimbursement.

The above noted scenerio raises a number of flags: assessment issues, right of election, statute bar, reimbursement issues. What are the consequences of not covering a worker in a compulsory industry? Is there a right to sue, if Quebec would not accept the claim? ...etc.

14. Future Issues

Lori Ferguson-Sain lead a discussion about the necessity of bringing important issues to future meetings, such as the case study noted in item #13. We discussed, generally, the ramifications of "residence and usual place of employment", the definition of "worker", etc.

It was also suggested that once we review specific cases with potential interjurisdictional ramifications, that the presenter provide the group with the outcome of the scenario at a future meeting.

It was agreed that "future issues" would be an ongoing agenda item.

ACTION (Committee): Anyone who wishes to have an item placed on the agenda, should prepare a briefing note for the group prior to the meeting, so that other Committee members may prepare their position, as required.

Brenda advised the Committee that the AWCBC currently has a library, which is being expanded. In the future, there is a research committee planned, with a goal of establishing contacts to submit research data, which would be centralized at the AWCBC. The ultimate goal is to have a Website for information management of documents of national interest.

ACTION (Brenda): Until a formal information sharing system is available, it will be the responsibility of the Boards to provide the AWCBC with documentation of any major initiatives taking place at their Boards, which may have an impact on the IJA.

Joe Pinto advised the Committee that BC is currently undergoing a Royal Commission, and BC's position papers on a number of issues are currently available on the Web.

Curtis Forbes advised the Committee that Alberta is currently going through public consultations which will likely result in the change of the definition of "worker" in the next year. This will very likely affect Alberta's participation in reimbursement and statute bar issues.

Lori Ferguson-Sain & Katherine Crosby lead discussion about our future ability to provide some viable measurement mechanism(s) for our successes and failures regarding the reim-

tracking models? How do we measure our shared administrative services, such as the benefits in kind provided by Vocational Rehabilitation Consultants?

Miscellaneous: When sending IJ cheques to another Board, ensure the name of the worker and claim number, if possible, are on the cheque, so that the moneys are correctly appropriated.

Meeting adjourned 11:15 a.m. A tour of the BC Board was offered, prior to lunch as guests of the BC Management group.

Agenda of the IJA

Interjurisdictional Agreement on Workers' Compensation (Disease) Committee Meeting

March 28, 1996

**Workers' Compensation Board of Ontario
200 Front Street West
17th Floor Boardroom**

9:00 am

1. Attendance

- | | |
|---------------------------------------|-------------------------|
| John Wisocky (Chair) | - AWCBC |
| J. Douglas Carr | - Alberta |
| Curtis Forbes | - Alberta |
| Ed Bates | - British Columbia |
| Pamela Cohen | - British Columbia |
| Pascal Beaulieu | - CSST |
| Sophie Genest | - CSST |
| Lori Ferguson-Sain | - Manitoba |
| Richard Tingley | - New Brunswick |
| Katherine Crosbie | - Newfoundland |
| Trevor Alexander | - Northwest Territories |
| Brenda Croucher (Recording Secretary) | - Ontario |
| Roberta Houston | - Ontario |
| Claire Marie Fortin | - Ontario |
| Terry Dunsford | - Prince Edward Island |
| Terry Brown | - Saskatchewan |
| Dale Schmekel | - Yukon |

Bud Du Gas, Chair, Interjurisdictional Trucking Agreement Committee, joined the meeting.

2. Proposed Agenda - March 28, 1996

The proposed agenda for the March 28, 1996 IJA - Disease Committee meeting was endorsed.

Mr. Wisocky noted that the objective of this meeting was to gain consensus on the implementation of Section 7 of the Interjurisdictional Agreement. This issue is tabled for presentation at the Heads of Delegations meeting in June 1996.

3. Interjurisdictional Agreement - Trucking

Mr. Du Gas provided the Committee with a status report as a result of the Trucking Committee meeting held on March 27, 1996.

Mr. Dunsford requested contact with a representative from the Ontario WCB regarding a "trucking case" involving both the Ontario and PEI WCBs.

ACTION POINT: Ontario WCB

Mr. Dunsford expressed concern regarding the impact of the Trucking Agreement on small WCBs. Concern was also expressed with respect to exceeding statutory limitations to accommodate a "cost transfer."

General discussion took place regarding a jurisdiction's right to sue and the impact of a worker's right to elect.

Mr. Bates suggested that a "disaster equalization payment" mechanism be considered to address issues created as a result of cost transfers. Mr. Bates further noted that, although the Trucking Agreement is a commendable initiative, the consequences that the PEI Board faces because of the accident in Ontario are unacceptable. Ms. Houston noted that the option of not participating in the Agreement exists. Mr. Wisocky noted that further discussion is required with respect to this issue.

Mr. Du Gas advised that further discussion will take place upon receipt of additional information regarding the PEI/ONT trucking case.

ACTION POINT: Bud Du Gas/John Wisocky

A copy of Mr. Du Gas' *Update Report* to the Heads of Delegations will be distributed to members of the IJA (Disease) Committee.

ACTION POINT: Bud Du Gas

Mr. Bud Du Gas left the meeting.

4. Minutes - September 13, 1994

The Minutes of the IJA Adjudication Subcommittee meeting held on September 13, 1994 were endorsed without revisions.

5. WCB Heads of Delegations Meeting

Mr. Wisocky provided the Committee with an update of the feedback received from the Heads of Delegations at their meeting in November 1995.

Mr. Wisocky noted that at the next Heads of Delegations meeting, June 23, 1996, it is anticipated that recommendations will go forward regarding the implementation of Section 7 of the Interjurisdictional Agreement.

6. Overview of Proposed Amending Agreement to Section 7 of the Interjurisdictional Agreement and Discussion of Outstanding Issues

The *Questionnaire on IJA on Workers' Compensation*, which summarized responses to the following issues, was discussed in detail:

- (1) inclusion of proposed Section 15.9
- (2) inclusion/exclusion of trial period
- (4) application of Section 7 to occupational noise induced hearing loss claims
- (5) endorsement of proposed revisions to Section 7.3

Mr. Wisocky advised that he will obtain Nova Scotia's response to the questionnaire.

ACTION POINT: John Wisocky

Ms. Houston advised that because of the legislative review in Ontario, Committee members from Ontario will not be in a position to commit to any particular course of action at today's meeting and are in attendance for observational purposes only.

Section 15.9

Ms. Genest suggested that an "effective date" should be included in the proposed Section 15.9 of the Occupational Disease section.

It was agreed that Section 15.9 would be added to the Agreement as follows:

Notwithstanding any other provision of this Agreement, the obligations of a Board under Section 7, effective on January 1, 1997, in respect of occupational disease claims registered during the period the Board was participating in said Section 7, shall survive the Board's withdrawal from this Section 7 or from the Agreement under Section 15.5.

Trial Period

Mr. Wisocky advised that most jurisdictions agree with a three-year trial period for Section 7. Mr. Wisocky noted that there is a general understanding that if a jurisdiction opts out of the Agreement, the jurisdiction is responsible for claims during that three-year period. It was agreed that similar wording to that used in the Trucking Agreement be utilized.

Minimum Claim Cost

Ms. Genest advised that if a claim cost limit is placed on Section 7, all workers may not be compensated appropriately.

It was suggested that the threshold be based on a \$5,000 minimum and that this amount be applied to cost reimbursement and **not** to the application of Section 7.

Ms. Ferguson-Sain advised that further discussion is required with the Manitoba WCB with respect to the claim cost limit.

ACTION POINT: Lori Ferguson-Sain

The proposed wording for the section pertaining to minimum claim cost will read:

Section 7.7 applies to occupational disease claims in which the total costs exceeds \$5,000.

Section 7.3

Ms. Genest suggested the removal of 7.3(b) which reads:

the claim is first registered with that Board.

Ms. Genest advised that Section 7.3(b) is a condition that is not consistent with the CSST's Act. It was agreed Section 7.3(b) would be deleted and Section 7.3(a) amended to form a single paragraph 7.3.

Section 7.6

It was agreed that Section 7.6 would read:

A Contributing Board which has adjudicated and paid the full costs of a claim for occupational disease, while another Contributing Board where the claim was originally submitted, did not apply the rules provided for under Section 7.4, can ask for a reimbursement under the rules provided by Section 7.7.

Ms. Genest suggested that reimbursement be applied to all claims. Mr. Carr noted that this would be consistent with an insurance scheme. Mr. Dunsford noted that this may be administratively burdensome. Mr. Wisocky noted the necessity for consensus with respect to this issue. Mr. Wisocky advised that two scenarios exist, one which is addressed by the amended Agreement and the other which includes full cost reimbursement.

It was suggested that the Committee begin with the implementation of the proposed amending Agreement with a final objective of moving toward a larger scheme of full cost reimbursement.

Occupational Noise Induced Hearing Loss

Ms. Ferguson-Sain suggested a three-year trial period for hearing loss claims.

Mr. Forbes advised that entitlement for benefits varies drastically between jurisdictions and suggested that hearing loss claims be omitted from the Agreement.

Mr. Wisocky noted that the amending Agreement's intent was to ensure that workers did not "fall through the cracks."

Ms. Genest suggested that the Committee proceed with the three-year trial period prior to considering the inclusion of hearing loss claims.

Mr. Wisocky noted that large numbers of hearing loss claims are not expected.

Mr. Alexander advised that between 1983 and 1991, the Western jurisdictions, including the Yukon and the Northwest Territories, adjudicated by one jurisdiction handling the entire claim and that this process was found to be less administratively burdensome.

The Committee (excluding Ontario representatives) endorsed the exclusion of noise induced hearing loss claims.

Mr. Alexander advised that a large percent of the Northwest Territories' claims are related to hearing loss. Mr. Schmekel advised of the same experience in the Yukon. Mr. Wisocky suggested that another mechanism, separate from the amending Agreement, could be considered for hearing loss.

Effective Date

Following discussion, it was agreed that the following wording would be used with respect to the effective date:

This amending Agreement is effective for all new claims registered on or after January 1, 1997.

Ms. Crosbie advised that Newfoundland would like to consider the "effective date" further.

Ms. Houston noted that the wording with respect to the effective date does not address "retroactivity," that is, the date from which benefits will become payable.

7. Cost Reimbursement Statistics

It was requested that Committee members complete the data requested for the 1995 Cost Reimbursement Statistics if it has not already been provided.

ACTION POINT: Committee Members

8. Extend IJA Cost Reimbursement Guidelines to January 1, 1998 or Implement on a Permanent Basis

Following discussion, the Committee (excluding Ontario representatives) agreed to extend the Cost Reimbursement Guidelines to January 1, 2001 with the understanding that an annual report would be prepared and jurisdictions can withdraw from Section 7 upon the appropriate notification.

9. Other Business

IJA Contacts

It was requested that a list of individuals in each jurisdiction who handle "medical assessment claims" be prepared and circulated to Committee members.

ACTION POINT: John Wisocky

Carpel Tunnel/RSI

Ms. Ferguson-Sain requested clarification with respect to the inclusion/exclusion of carpal tunnel and RSI claims in Section 7. Mr. Forbes advised that the Alberta WCB desires the exclusion of these types of claims from the Agreement.

Amending Agreement

Mr. Wisocky advised that Ms. Houston will forward the revised Agreement to Mr. Wisocky for distribution to the Committee members.

ACTION POINT: Roberta Houston/John Wisocky

National Adjudication Manual

Ms. Fortin reviewed the summary of comments received as a result of the jurisdictions' review of the draft National Adjudication Manual. It was noted that comments from the CSST and Manitoba had not been included in the summary of comments.

The summary was distributed to committee members for further review.

ACTION POINT: Committee Members

Ms. Fortin advised that comments from Manitoba and CSST will be included in the summary.


ACTION POINT: Claire Marie Fortin

Next Meeting

It was agreed that the next meeting of the Committee would be in British Columbia, in August, in conjunction with the lawyers' meeting.

Mr. Alexander suggested that the meeting be two days in duration and that in addition to the coordinator being present, a staff member with adjudication expertise also be invited.

Minutes Prepared by:


Brenda Croucher
Associate Secretary - Office of the Secretary
WCB of Ontario

*to

Attachments

Distribution:

- Committee Members
- Bud Du Gas

Interjurisdictional Agreement on Workers' Compensation Meeting

April 14-15, 1997

Commission de la santé et de la sécurité du travail
1199 rue de Bleury
Montreal, Quebec
14th Floor Board Room

Attendance:

Brenda Croucher, AWCBC	Katherine Crosby, Newfoundland
Doug Carr, Alberta	Janet Curry, Nova Scotia
Maggie Fernandez, Alberta	Paul Holyoke, Ontario
Curtis Forbes, Alberta	Terry Dunsford, Prince Edward Island
Pam Cohen, British Columbia	Terry Brown, Saskatchewan
Rob Campbell, Manitoba	Sheila Lilles, Yukon
Lori Ferguson-Sain, Manitoba	Pascal Beaulieu, Quebec
Richard Tingley, New Brunswick	Sophie Genest, Quebec
Trevor Alexander, Northwest Territories	

Minutes

1. INTRODUCTORY REMARKS

Welcome to new Committee members: Rob Campbell (Manitoba), Paul Holyoke (Ontario), Janet Curry (Nova Scotia), Sheila Lilles (Yukon).

Since the last meeting of the IJA Committee in August, 1996, Brenda Croucher has assumed the role of Executive Director, AWCBC, and Chair of the IJA Committee.

Brenda presented the work plan and agenda to the AWCBC Executive Committee at their March 18, 1997 meeting. The IJA Committee agreed to move forward with the agenda.

All correspondence to the AWCBC should be sent to the Head Office in Edmonton. Information will be forwarded to Brenda in Ontario by Julie Renaud. Julie has replaced Marie-Claude, who has left the AWCBC Head Office to pursue a new position.

• Orientation for New Members

It was agreed that existing Committee members, whenever possible, would provide orientation to colleagues from their jurisdictions who would be attending upcoming meetings, prior to the meeting.

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- **Orientation for New Members (Cont.)**

Brenda will ensure that new members have all background information prior to attending their first meeting, including the provision of a binder of key documents and decisions, work plan, etc. When possible, she would be willing to meet with new members the night before the meeting, to answer questions and provide an update.

New members will be responsible for reviewing minutes from prior meetings before attending their first meeting.

Each jurisdiction's representative is responsible for updating any contact lists relating to the IJA, and providing this information to the Chair.

- **Frequency of Meetings**

It was decided that the Committee should meet on an "as needed" basis. After each meeting, the Committee will determine when and where the next meeting is to be held. This will be the final agenda item at each meeting.

- **Reporting Relationship of IJ Trucking Committee**

The trucking group is a sub-committee of the IJA Committee, and has reporting responsibilities to same. Brenda will clarify reporting relationship at the upcoming Trucking Committee meeting in B.C., May 20, 1997, to ensure that the appropriate avenue of communication is not circumvented.

The Chair of the Trucking Committee is responsible for providing both an agenda and minutes to the IJA Committee, for distribution to members, prior to the next IJA meeting. Bud Du Gas, Chair of the Trucking Committee, has agreed to provide Brenda with this information, and Brenda will distribute same to IJA Committee members. Bud will be stepping down as Chair, and his replacement has yet to be formally announced.

ACTION (Committee)

Each IJA Committee member is responsible for briefing their Trucking sub-committee representative(s) on issues relating to the Trucking Agreement, which have been discussed in an IJA meeting. Brenda will provide a briefing note to the Chair.

HANDOUT: Report to AWCBC Executive Committee, prepared by Bud Du Gas February 19, 1997, re: "Alternative Assessment Procedures - Interjurisdictional Trucking Industry".

ACTION (Committee)

Each IJA Committee member is to review the above noted Trucking assessment problem with their representative on the Trucking Committee, in order to confirm the assessment method their jurisdiction will be supporting at the upcoming Trucking meeting. Options are noted in the handout. It is expected that the sub-committee will recommend appropriate action to the IJA Committee.

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ACTION (Committee)(Cont.)

Pascal Beaulieu, the Assessment representative from Quebec, presented an IJ Trucking issue, in which it is possible for an employer to be over-assessed, when the worker earns less in the province in which he has claimed, but the employer has been assessed on earnings collected from more than one jurisdiction.

HANDOUT: "Assessment Problems caused by Sections 10.3 and 10.4 of the IJA," prepared by Pascal Beaulieu.

ACTION (Pascal B.)

Pascal will ensure that the issues noted in his handout will be placed on the agenda for the Trucking meeting (May/1997).

Currently, the IJ Trucking pilot project is scheduled to end December, 1997.

• Role of Committee members

It is the responsibility of each IJA Committee member to thoroughly brief their Delegation Head, prior to the Delegation's next meeting, regarding issues/outcomes of IJA meetings.

Each Committee member will provide Head Office with a brief on their jurisdiction's stand on issues. The information will be compiled at Head Office, and distributed to the Heads of Delegation and IJA Committee members, prior to the Heads meeting. This will allow all parties to know where consensus has been reached, and whether or not lack of agreement on the part of one or more jurisdictions, will have an impact on implementation of an action in one's own jurisdiction. This will also allow Brenda to highlight the salient issues upon which jurisdictions agree, as well as be aware of potential challenges.

It is important to ensure that this group provides their Heads of Delegation with appropriate background information, including what has been agreed upon and why, as well as areas of disagreement and the reasons behind same. Each Committee member will forward recommendations to their respective Heads, once background information provided.

After brief discussion, the Committee agreed to provide information to the AWCBC, when requested, on a timely basis. It was also agreed that Committee members would provide verbal indication of their jurisdiction's stand on issues at IJA meetings, so that each member was aware of the position taken by other jurisdictions.

HANDOUT: Copies of correspondence between Boards, by Heads of Delegation, subsequent to Michael O'Keefe's letter of December 18, 1996, which outlined Ontario's position on Section 7. Distributed by Sophie Genest, Quebec representative.

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2. IJA**• Identifications of sections of the Agreement that are and can continue to be active**

Sections 1 - 3.2(e): No discussion

Section 3.2(f): See item 6 in minutes (discussion only)

Section 4.1 (Election): Discussion and agreement that it is necessary to keep this section intact. Most jurisdictions have statutory requirement to provide an election form, where appropriate. Discussed ramifications of not providing form. If benefits paid, administrative/service issues may arise (ie. duplication of benefits), as well as risk of negligent liability (ie. legal representative not advising client of the possibility of right of election elsewhere).

ACTION (Committee)

Each member is to prepare a communication to Adjudicators/Case Managers in their jurisdiction outlining the necessity to send election forms to workers, on all claims where appropriate.

Claims contacts in all jurisdictions are to advise all other appropriate jurisdictions, when a worker elects to claim in their jurisdiction. The mechanism to be used is to send the signed election form, attached to the Application for Compensation (or other relevant document containing pertinent information) to any other Board where the worker may have had the right of election.

Section 5: No discussion.

Section 6: Although there is no recommendation to change the way this section was written, there was discussion concerning the protocols to be used when requesting "Benefits in Kind".

Sophie Genest (Quebec) provided an example of a key difference which exists between some jurisdictions, relating to how workers are measured for impairment. In Quebec, loss of function is measured. In Ontario, remaining functional capacity is measured, indicating that these two jurisdictions are measuring two different things. When requesting an examination for a worker in another jurisdiction, it is critical to define precisely, the information that is needed, so that the resulting examination report is of value to the Board requesting it.

Sophie will provide a briefing note to other Boards on, "What is Rehabilitation in Quebec," so that other jurisdictions providing the service will know what is expected.

Pam Cohen (B.C.) provided an example of the necessity for clear communication between Boards, when services are requested. B.C. received a request for vocational services, but information was not initially received regarding the worker's status as a violent offender. Representatives are to be advised to communicate verbally with their counterparts in other jurisdictions, as well as provide all appropriate documentation.

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Section 6: (Cont.)

In turn, the Board representative providing the service is responsible for follow-up communication with the requesting Board, to ensure understanding/agreement on service expectations.

All "Benefits in Kind" requests to Quebec should be directed to Sophie Genest, prior to any communication with any other C.S.S.T. representative.

Section 7: See item 4 in minutes.

Section 8: See item 5 in minutes.

Sections 9-10: This Committee will not actively pursue legislative changes at this time. It may be necessary, in the future to do so, to protect liability.

ACTION (Doug C.)

Doug Carr (Alberta) agreed to prepare a background document for the Committee, for feedback, regarding the feasibility of legislative changes to enact provincial coverage only in the jurisdiction where the worker lives and works.

Section 10: See also, item #1 in Minutes, re. reporting relationship of Trucking Committee.

Section 11: No discussion/changes.

Section 12: Quebec received a billing for translation services. It would be greatly appreciated if translations could be handled on an ad-hoc basis, where possible, prior to requesting professional translation services. Committee agreed that a good-faith effort would be made in this regard, so as not to place Quebec at a disadvantage, as they are not currently charging for document translation.

Paul Holyoke (Ontario) advised that Ontario would be willing to enter into a written "document sharing" agreement with any jurisdiction requesting same.

Section 13: No discussion.

Section 14: Ontario and P.E.I. are currently participating in a 3rd party mediation. Those jurisdictions will report the results back to the IJA Committee.

Section 15.4: Stemming from the 3rd party dispute noted under Section 14 comments, and currently under mediation, it is Ontario's position that the provision of a statement regarding the extent of participation in the Agreement is mandatory. P.E.I.'s position is that the provision is voluntary.

In the future, it may be necessary to replace the word "extent," in 15.4, to "limitations".

There was a suggestion that standardized appendix questions be formulated and distributed to Committee members, to ensure consistency in Appendix A. Committee members are encouraged to send sample questions to Brenda, who will summarize and distribute results to group.

ACTION (Committee/Brenda)

- **Identification of sections of the Agreement that have not been operationalized and a process to rescind these sections until outstanding issues can be addressed, ie. Section 7.**

Consensus that no Sections would be rescinded at this time. See item 4 of minutes, for further discussion.

- **Determination of extent of rewrite required.**

Minor housekeeping changes were agreed to re. Section 7. See item 4 in minutes.

3. COST REIMBURSEMENT

- **Overview of cost reimbursement mechanism.**

Committee agreed that it would not be necessary to provide an overview at this time.

- **Distribution of Statistics for 1996.**

HANDOUT: Brenda provided the national cost reimbursement statistics for 1996. Discussion re. what statistics represent and how to get consistency. Agreement that column headings are confusing, and that jurisdictions may be reporting different information from one another.

The Committee agreed that the following guidelines would be used, to ensure reporting consistency:

1. IJT statistics will not be included in reimbursement statistics.
2. Requests for reimbursements are to be reported for the calendar year in which the request was made, regardless of the year of the claim.
3. Reimbursements received shall be reported for all monies received in the calendar year, regardless of when the request was made.

ACTION (Curtis F. & Brenda C.)

Curtis Forbes (Alberta) has agreed to re-work, and clarify the language used on the stats. sheets, and will forward the amended report to Brenda, for distribution to the group. He will also provide information on the computerized tracking reports used by Alberta.

There was general discussion regarding the level at which each jurisdiction has operationalized the cost reimbursement mechanism. Further training needs and control mechanisms were identified as necessary follow-up actions in some jurisdictions.

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- **Discussion and Determination of the Inclusion of a Reference to the Cost Reimbursement Mechanism” in the Body of the Agreement.**

This issue was tabled, to be discussed at a future date.

4. SECTION 7 - OCCUPATIONAL DISEASE

- **Plan to Address Outstanding Issues.**

Discussion took place with respect to the following:

1. Proceed with recommendation to implement Section 7 as is, with minor housekeeping changes re. the date of implementation.
2. Work out issues expressed by Ontario prior to implementation.
3. Amend procedures manual to reflect a change in the apportionment of costs to reflect less than 100% in cases where a jurisdiction in which a worker had exposure, would not be participating in the reimbursement process, in order not to penalize the employer in the adjudicating jurisdiction. As well, reduce the trial period from 3 years to 2 years.

With the exception of Ontario, each jurisdiction, by individual vote, has agreed to proceed with Option #:1, with the addition of the following Adjudication Manual changes:

1. Implementation date of January 1, 1998.
2. 2-year trial period.

It should be noted that although Ontario is not prepared to participate in the implementation of Section 7, as it is written, at this time, their jurisdiction maintains an active cooperative philosophy regarding the Agreement as a whole, and Ontario is willing to discuss possible agreements with individual jurisdictions, upon request.

Alberta, in particular, has stated a strong concern regarding the employer-impact surrounding apportionment of costs to 100% rather than deducting that portion relating to a jurisdiction not participating in reimbursement.

Curtis Forbes (Alberta) and Sheila Lilles (Yukon) expressed the need for re-formatting IJ Agreements/related documents/etc., to a more professional standard, so that fonts, dates, page numbering, tabs and margins, are all consistent. All documents should be held in a bound volume.

ACTION (Brenda C.)

Brenda will consolidate Agreements and appropriate correspondence accordingly, and will distribute to Committee members after the June, 1997 Heads meeting.

ACTION (Paul H.)

Paul Holyoke (Ontario) will track down the finalized National Adjudication Manual, and send to Brenda for group distribution.

- **Recommendation to the Executive Committee and Heads of Delegations re: Operationalizing:**

ACTION (Committee)

Appendices to Section 7, noting only statutory prohibitions, must be sent directly to Brenda by **APRIL 24, 1997**. Fax: (905) 785-2871

ACTION (Committee)

Committee members will provide Brenda with confirmation that their Board will or will not be ready to proceed with the Amending Agreement prior to the Heads meeting in July, 1997.

ACTION (Brenda C.)

Brenda will then prepare, and send to group:

1. Covering notes
2. Appendices
3. Amending Agreement

ACTION (Committee)

Each Committee member is responsible for providing their Head of Delegation with a synopsis of the recommendation to proceed with implementation of Section 7.

It is extremely important that Heads be briefed on the reasons behind Ontario's position, including, but not limited to, the non-inclusion of hearing loss, \$5000 minimum cost prior to reimbursement, and reservations about accepting a claim for the full amount of costs, and then not receiving reimbursement from other jurisdictions.

Briefing should also take place regarding the impact on employers who may be assessed for costs for which they are not responsible.

It is again anticipated that the number of Section 7 claims will be minimal, since we are only intending to capture those workers whose exposure in an individual jurisdiction may not be enough to accept a claim, but whose total Canadian exposure would allow for a process of acceptance. It must also be recognized that some workers simply will not be entitled to any compensation.

There was discussion re. whether or not a member of this Committee should be present at the Heads meeting, to field questions and provide input, as necessary. Consensus was that no single Committee member would be well-versed enough in the legislation and stand of all other jurisdictions, to perform this function.

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ACTION (Committee) (Cont.)

It was agreed that our Committee Chair is ultimately, the appropriate representative of this group, at the Heads meeting. However, it is our responsibility to ensure that our Delegation Head is well informed.

5. SECTION 8 - AGGRAVATION:

This section is operational in many jurisdictions. problems appear to be on an "individual case" basis only, and will be handled by the jurisdictions involved, noting that Section 14 is available for 3rd party mediation.

Sample scenario provided by Terry Dunsford (P.E.I.) for group discussion.

ACTION (Brenda C.)

Section 8.1: Consensus was reached to amend last sentence to say, "shall advise upon request", rather than "shall advise". This amendment will be submitted to the Heads of Delegations at a future date.

6. SECTION 3.2(F) - SELF INSURED:

Reviewed briefing note prepared by Quebec/B.C. representatives (attached to Agenda).

In cases where employers are self-insured in both jurisdiction's involved in a claim, no reimbursement occurs. However, when the employer is self-insured in only one jurisdiction, reimbursement would take place.

All jurisdictions are to be advised that if an employer is self-insured in Quebec, but not in the jurisdiction requesting reimbursement, Quebec may not be able to reimburse, based on their stand that the employer is a 3rd party, who is not party to the IJA.

7. OTHER BUSINESS:

Sophie Genest (Quebec) advised the Committee that Quebec law requires all correspondence sent to other governments (which includes WCB's in other jurisdictions), must be in French. She has agreed to provide an attached English translation on IJ correspondence to the Committee. Appreciation for this effort was extended.

HANDOUT: Additional Issues Identified by IJA Committee members (April 1997).

A number of these issues were discussed during the 2-day meeting.

ACTION (Committee)

It was suggested that remaining items be reviewed upon return to home jurisdiction, and comments are to be referred back to Brenda. She will then report back to the group. Some issues may become items for the next agenda.

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HANDOUT: IJA and IJT work plan (info. only)

The Committee expressed its gratitude to Sophie Genest, for hosting this meeting in Montreal.

Noting that the Trucking Committee meets in May, 1997, and again in September, it will be requested that their meeting be held in early September.

The next meeting of the IJA Committee will be held in B.C., September 22-23, 1997. Members should be prepared to spend 2 full days, so flights would need to be arranged accordingly.

Please note an attachment to the minutes, which is the April 3, 1997 correspondence from Curtis Forbes (Alberta) to the AWCBC.

MINUTES PREPARED BY: Pamela Cohen/vb

Interjurisdictional Agreement on Workers' Compensation Meeting

August 19&20, 1996

Workers' Compensation Board of Ontario
200 Front Street West
Toronto, Ontario
Meeting Room 7-A

1. Attendance:

Curtis Forbes, Alberta
Maggie Fernandez, Alberta
Ed Bates, British Columbia
Pam Cohen, British Columbia
Lori Ferguson-Sain, Manitoba
Vic Wehrmann, Manitoba
Richard Tingley, New Brunswick
Omer Robichaud, New Brunswick
Katherine Crosbie, Newfoundland
Joan Perry, North West Territories
Trevor Alexander, North West Territories
Al MacNeil, Nova Scotia
Natalie Smurthwaite, Ontario
Roberta Houston, Ontario
Claire Marie Fortin, Ontario
Terry Dunsford, Prince Edward Island
Sophie Genest, Quebec
Pascal Beaulieu, Quebec
Terry Brown, Saskatchewan
Dale Schmekel, Yukon
Tony Armstrong, Yukon
Val Johnson, AWCBC
John Wisocky, (Chair), AWCBC

2. Agenda:

The following matters were added to the Agenda by John Wisocky:

- . Updating the list of IJA Coordinators.
- . Letter from the PEI Board regarding limitation on trucking agreement reimbursements.
- . Forests Fires Agreement from 1983.
- . Nav Canada
- . Self-insurers

3. Minutes of the March 28, 1996 meeting.

The minutes of the March 28, 1996 meeting were informally accepted.

4. June 23, 1996 - Heads of Delegations meeting.

John Wisocky provided an update on the June 23, 1996 WCB Heads of Delegation Meeting regarding the Amending Agreement to Section 7 dealing with the adjudication of Occupational Disease:

- The guiding principles were endorsed by the Heads and the IJA Coordinators are directed to finalize the procedural manual.
- The Heads endorsed the extension of the cost reimbursement provision to January 1, 2001.

5. Amending Agreement:

Roberta Houston gave an overview of the Amending Agreement.

Sophie Genest pointed out that paragraph 7.4(a) could be clearer in that it means "30% or more". It was agreed that this would be clarified in the manual.

Roberta Houston pointed out that Ontario Government is currently continuing a process of legislative reform of the workers' compensation system. The Ontario WCB is therefore unable to commit to becoming a party to the Amending Agreement, or to the endorsing of the principals contained in it. The role that Ontario is playing in this meeting is limited to the preparation of the manual.

After lengthy discussion, it was agreed that section 7.9 requires that there is no cost-sharing for claims under \$5,000.00 and that the jurisdiction will be required to pay the entire costs based on total Canadian exposure.

6. Proposed Procedure Manual to Accompany Amending Agreement to Section 7:

Claire-Marie Fortin provided an overview of the December 13, 1995 Draft Manual.

After lengthy discussion, several changes will be made to the manual. The new draft should be completed and given to the AWCBC for distribution by September 6, 1996.

Quebec and British Columbia will provide Claire Marie Fortin with copies of the exposure history forms that their injured workers complete.

Forms that are provided in the manual are to be used as a guideline for basic information, each Board may alter the forms as required.

Exposure history enquiry forms are optional and are not required by all Boards.

For Form A (release of information) some Boards may require the original or a certified copy.

The AWCBC will formally send a letter to the Federal Government asking that exposure of workers covered by the Government Employees Compensation Act (GECA) be recognized as part of this arrangement.

A list of Occupational Disease contacts is required for use in the National Adjudication Manual.

The group will look at including hearing-loss in the Amended Agreement as it is included in the Master Agreement, in a later discussion.

Section 11.1 states that the administering Board will not charge administrative fees. It is practice that the reverse is to be held true. However, the committee may discuss at another time the payment for unusual expenses such as translation or subpoenas.

It is expected that the number of claims are minimal, as real-life situations come up after January 1, 1997, each Board will need to consult with each other on a case by case basis.

When one Board is not participating, 100% of the claim is apportioned to the remaining Boards.

Once the injured worker submits their exposure history information, the contributing board will copy the injured worker and the employer on their findings. If there is more than one employer, the information will be severed as necessary.

The group decided that that separate forms were appropriate for Forms D and F, but the group may wish to combine Forms D and F, based on practical experience at a later date.

7. **Signing and Implementation of the Amending Agreement to Section 7 of the IJA.**

The AWCBC wants to start the signature process now. Each jurisdiction should start obtaining the necessary approvals and authorizations for signing.

The IJA Coordinators are to take responsibility for obtaining the approval of the Adjudication Manual by their Boards and promote its usage by their adjudication staff.

The Adjudication Manual will be completed by September 6, 1996 and given to the AWCBC for distribution to the jurisdictions. The manual will be sent out with a covering letter for the IJA Coordinators to get final

comments.

Any statutory changes should be provided to the AWCBC along with the comments on the National Adjudication Manual.

8. IJA Cost Reimbursement Data

The following information for 1995 was provided by John Wisocky:

· # of claims with requests for reimbursement	715
· Total \$ requested for other jurisdictions	\$5,716,620.93
· Total \$ received from other jurisdictions	\$2,916,552.54

Not all Boards have submitted their data. All data should be submitted to the AWCBC by September 6, 1996 from each jurisdiction.

When reporting statistics, each Board is to provide a break-down for each province on the lines available. The AWCBC will consolidate the data.

The AWCBC will provide statistics for the first half of 1996 when all data is submitted.

9. Section 8 of the IJA dealing with Aggravation or Worsening of a Disability - How to Operationalize

There may be a need to develop a system of proportioning costs for injured workers who have a reoccurrence from injures that may be covered by more than one Board.

For the next IJA Coordinators meeting the group will:

- Provide examples of Aggravation or Worsening of a disability claim between more than one province.
- Discuss with appropriate people within their Boards that section 14 is available for mediation purposes.
- Be prepared to make further recommendations on section 8.

10. Master Interjurisdictional Agreement

After the Amending Agreement is signed, the Interjurisdictional Agreement will be marked to indicate changes from the Amending Agreement. (Action point: Roberta Houston)

John Wisocky noted that the AWCBC receives requests from the public for copies of the IJA. Boards noted concerns about providing copies of the Agreement which do not accurately reflect the current situation. Once the IJA has been marked to show changes, these concerns will be alleviated.

Appendix D (list of the IJA Coordinators) needs to be updated (AWCBC).

For medical contacts, Boards were reminded to use contacts from the medical assessment contacts list.

11. **New and or Other Business**

A letter from the PEI Board is included in these minutes as appendix A, outlining PEI's limitation in participating in cost-reimbursement. This issue will be dealt with by the Trucking Committee and the assessment experts.

John Wisocky wanted to alert all Boards that Nav Canada is requesting to be self-insured for workers compensation purposes. This may have far-reaching impacts and Boards should be careful in the coverage that will be extended to this firm.

Clarification was requested on section 3.2(f) of the IJA for a general understanding of this section. It was agreed that the IJA including the cost reimbursement appendix, applies unless an employer is a self-insurer in all affected jurisdictions.

John Wisocky brought to the attention of the group the Canadian Interagency Mutual Aid Resources Sharing Agreement (appendix B). This agreement reimburses the cost of compensation and death benefits to injured workers who were forest fire fighters. Special attention should be given to section 8.01 of this agreement. IJA coordinators are requested to bring the agreement to the attention of their adjudication staff.

Boards should not seek reimbursement for third-party claims costs that have been recovered from the third-party.

John Wisocky mentioned that several Worker Advisor groups have difficulties with the IJA and will be making a written submission to the AWCBC.

Minutes Prepared By: Natalie Smurthwaite

**IJA COMMITTEE MEETING MINUTES
MARCH 28, 1996
NO RECORD**

INTERJURISDICTIONAL AGREEMENT ON WORKERS' COMPENSATION

COMMITTEE MEETING

SEPTEMBER 26, 1995

Ontario WCB Boardroom
20th Floor

Attendees: John Wisocky, Chair
Joan Perry, Northwest Territories
Peter Federko, Saskatchewan
Doug Carr, Alberta
Pascal, Beaulieu, Quebec
Sophie Genest, Quebec
Richard Tingley, New Brunswick
Katherine Crosbie, Newfoundland
Del Schmekel, Yukon
Allan Scramstad, Manitoba
Ed Bates, British Columbia
Claire-Marie Fortin, Ontario
Roberta Houston, Ontario
Graham Steele, Nova Scotia

Interjurisdictional Agreement - Coordinator's List

The Interjurisdictional Agreement - Coordinator's List was circulated and updated.

Heads of Delegation Meeting Minutes - June 11, 1995

Mr. Wisocky advised that the Heads of Delegation had considered the following principles at their meeting in June 1995:

- (a) if a worker claims in a jurisdiction where there is sufficient exposure and the worker elects to claim in that jurisdiction, no reimbursement takes place;
- (b) if a worker has sufficient exposure in each of two or more jurisdictions, the jurisdiction where worker has elected to claim pays the claim with no reimbursement;
- (c) if a worker has insufficient exposure in any one jurisdiction but has sufficient Canadian exposure, the worker may elect a jurisdiction and that jurisdiction will be reimbursed for exposures in other jurisdictions subject to statutory limitations.

Mr. Wisocky noted that the Heads endorsed (a) and (c), and agreed (b) required further discussion.

Mr. Wisocky noted that the June 11, 1995 minutes were inaccurate with respect to the endorsement of proposed operating guidelines. Mr. Wisocky will ensure that the minutes are revised and distributed.

ACTION POINT: JOHN WISOCKY

Stats Canada

Mr. Wisocky advised that the following occupational diseases have been reported by worker compensation boards: 1989 - 58,000, 1993 - 38,000. Mr. Wisocky noted that these statistics exclude hearing loss claims which total approximately 1,500.

IJA - Section 7

Mr. Wisocky advised that all Boards are signatory to the Agreement. Mr. Wisocky noted that Section 7 is not operational.

Mr. Wisocky extended his thanks to Ms. Fortin and Ms. Houston for preparing the revisions to Section 7 of the Agreement.

Alternate Assessment Procedure for Interjurisdictional Trucking

Mr. Du Gas provided the Committee with an update as a result of the trucking meeting which took place on September 25, 1995. Minutes of the meeting were provided to Mr. Du Gas and the significant points discussed in their meeting were highlighted.

Mr. Bates asked what ramifications there would be as a result of Saskatchewan not participating in the trucking agreement. Mr. Du Gas noted that there were no significant ramifications.

Mr. Schmekel noted that the agreement is contrary to the Yukon's Act with respect to exceeding statutory limitations and that there is an intent to amend the Act to address this issue.

Mr. Du Gas departed the meeting.

Interjurisdictional Agreement - Section 7

Mr. Wisocky reviewed the suggested amendments to Section 7 of the Interjurisdictional Agreement on Workers' Compensation.

Revisions to the amended agreement as a result of today's discussions will be attached to these minutes.

ACTION POINT: JOHN WISOCKY

The following will serve as a provision of highlights of the discussions which took place with respect to the review of the Section 7 amendments.

Mr. Steele advised that "disallowances should be accepted by all boards."
Ms. Crosbie indicated that if a claim is disallowed initially, and subsequently allowed in another province, Newfoundland would not be in a position to pay the claim.

Ms. Perry suggested centralized adjudication i.e., AWCBC.

Interjurisdictional Agreement on Workers' Compensation
Committee Meeting
September 26, 1995
Page - 3 -

General discussion took place with respect to the advantages/disadvantages of each jurisdiction preparing a list of diseases that would be considered for payment in cases where there was insufficient exposure in the Jurisdiction of the Adjudicating Board. Following discussion, it was agreed that the above action would not be of benefit.

The Committee agreed that Section 7 will not apply to stress, chronic pain or hearing loss claims, but will apply to all other occupational diseases.

A discussion took place with respect to whether the "capitalized amount" should be considered in Section 7.5(b). It was suggested that generally, Boards would want to invoice for the capitalized amount, but would be willing to reimburse a jurisdiction should a worker prematurely die. Ms. Fortin suggested that this issue be addressed in the guidelines. Mr. Bates noted that British Columbia would not agree with capitalized payouts. Mr. Beaulieu suggested that this issue be addressed among jurisdictions in each case. Mr. Wisocky noted that the reimbursement should be similar to the reimbursement guidelines outlined in Appendix C of the Agreement. Mr. Federko noted that this issue is administrative in nature. Mr. Scramstad suggested that this be addressed among jurisdictions. It was agreed that 7.5(b) remain unchanged, but that the guidelines reflect that Boards can make arrangements in each case regarding capitalized costs.

In reference to 7.5(c) Ms. Crosbie noted the definition of "maximum amount of benefits payable according to its (a jurisdiction's) statutory authority." Ms. Crosbie questioned whether there were other limitations in the jurisdiction's legislation. Ms. Crosbie noted that as long as the amount was within Newfoundland's statutory limitation, payment would be appropriate.

Following discussion, it was agreed that 7.6 would be deleted from the amended Section 7 draft as all Boards were to participate, and there were to be no excluded diseases except for stress, chronic pain and hearing loss.

Ms. Fortin provided an example of how cost apportionment would apply in situations if there is a non participating jurisdiction or if coverage was not in effect. Ms. Fortin's example outlined that in such a case, the apportionment calculation would be divided among the remaining jurisdictions. Ms. Fortin noted that the fewer jurisdictions participating, the greater the financial impact on the remaining jurisdictions.

It was agreed that the only reason a jurisdiction would be "non participatory" or factored out of apportionment would be in cases where the worker would be considered an "uncovered worker." It was noted that an elaboration of the above point with respect to "covered workers" is not required because of Section 3.2(a).

It was agreed that earnings would be calculated at the time a claim was made.

It was agreed that Section 7 applies only to occupational disease claims in which the total costs exceed \$5,000.

It was agreed that the Heads of Delegations would be advised that issues regarding noise induced hearing loss claims would be addressed at a later date.

ACTION POINT: JOHN WISOCKY

It was determined that 7.9 and 7.10 would be amalgamated with revision.

Following discussion regarding the effective date of the Agreement, it was agreed that the amended agreement would be effective for all new claims registered on or after January 1, 1996.

Ms. Genest noted that in cases where a worker has elected to claim in a jurisdiction and there is insufficient exposure in that jurisdiction, the worker should not be referred to CSST. The jurisdiction the worker initially approaches should adjudicate the claim considering the Canadian exposure and request reimbursement.

Ms. Houston noted a concern regarding the deletion of the hierarchy from the revised Section 7. Ms. Houston noted that there must be a reasonable connection to an adjudicating board i.e., exposure/residence to ensure claims are forwarded to the appropriate jurisdictions.

Ms. Genest noted Quebec's legislation with respect to their injured worker's right to elect.

Mr. Bates advised that jurisdictions can justify the imbalance of "more monies out the door than received" for accidents as accidents are actually occurring in the jurisdiction. Mr. Bates noted that justifications for participating in Section 7 does not have the same basis and therefore, justification for this situation is difficult.

Ms. Fortin suggested that instructions be included in the manual with respect to the hierarchy. Ms. Crosbie noted the Committee must be careful to take a principled approach in the section and guidelines to ensure the onus is not upon the claim's adjudicator.

Mr. Wisocky suggested that 7.3 be revised to address issues concerning the Worker's right to elect and the hierarchy.

Following discussion, it was suggested that representatives from Ontario, Quebec and Newfoundland review 7.4 (b) in an attempt to address Ontario's concerns regarding the inclusion of the hierarchy and Quebec's requirement regarding their worker's right to elect. Upon revision, this section will be circulated to all jurisdictions for comment.

**ACTION POINT: ONTARIO/QUEBEC/NEWFOUNDLAND
JOHN WISOCKY**

Mr. Wisocky suggested that Section 7 be implemented on a three year trial. Ms. Houston noted that it would be necessary to include a "grandfather clause." The issues of a grandfather clause and a three year trial were discussed and left outstanding, to be revisited if a satisfactory arrangement is worked out regarding the hierarchy/right to elect issue.

It was noted that issues concerning Appeals and Section 8 would be addressed at a later date.

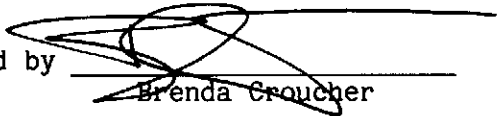
Ms. Fortin requested that an opportunity be made available to discuss the "dispute mechanism" with Mr. Wisocky.

It was requested that a copy of the procedures Ontario prepared for cost reimbursement be attached to the minutes.

ACTION POINT: BRENDA CROUCHER

The meeting adjourned at 4:00 p.m.

Prepared by


~~Brenda Croucher~~

**IJA COMMITTEE MEETING MINUTES
MAY 11, 1995
NO RECORD**

INTERJURISDICTIONAL AGREEMENT MEETING**Adjudication Subcommittee on Occupational Disease****MINUTES**

Date: April 7, 1995

Time: 8:30 a.m.

Location: Board Room, Head Office, Ontario Workers' Compensation Board

Attendees:

John Wisocky - Chair
Terry Dunsford - P.E.I.
Terry Brown - Saskatchewan
Katherine Crosbie - Newfoundland
Pam Cohen - British Columbia
Ed Bates - British Columbia
Curtis Forbes - Alberta
Trevor Alexander - NorthWest Territories
Roberta Houston - Ontario
Ken Burkimsher - Ontario
Claire Marie Fortin - Ontario
Lenore Lecky - Ontario
Mario Ste Croix - Quebec
Jean Mercier - Quebec
Rick Hancock - New Brunswick
Vick Wehrmann - Manitoba
Brenda Croucher - Ontario

The meeting convened at 8:30 a.m.

I.J.A. Co-ordinators List

Mr. Wisocky requested that the Interjurisdictional Agreement Co-ordinators list be circulated, updated and included as an attachment to these minutes.

Introduction

Mr. Wisocky indicated that the purpose of the meeting was to discuss the implementation of section 7 of the Interjurisdictional Agreement and select an implementation date. Mr. Wisocky advised that misunderstandings exist with respect to the principles of the I.J.A. Mr. Wisocky further noted that the anticipated number of occupational disease claims would not be large, within the 3 - 5% range and that cost sharing would be minimal.

Mr. Wisocky emphasized that the committee's task is to develop guidelines for the adjudication of occupational disease claims under the Interjurisdictional Agreement. These guidelines, upon development, are intended for review by the Interjurisdictional Agreement Committee on May 11, 1995 and will be submitted to the Heads of Delegations on June 11, 1995 for approval.

INTERJURISDICTIONAL AGREEMENT MEETING**APRIL 7, 1995****Page - 2**

Mr. Wisocky indicated that it is the AWCBC's Executive Committee's expectation to proceed with this initiative and that problems may exist if the above time line is not maintained.

November 29, 1994 Minutes

Ms. Cohen moved a motion to approve the November 29, 1994 Interjurisdictional Agreement Adjudication Subcommittee Meeting Minutes. This motion was seconded by Mr. Alexander and carried.

Business Arising out of Previous Minutes

There was no business arising out of the minutes of November 29, 1994.

Review of Current I.J.A. Adjudication and Cost Reimbursement Provisions for Occupational Disease

The following will serve to highlight comments and action points as a result of extensive discussion.

Mr. Wisocky confirmed that the Interjurisdictional Agreement, including section 7, has been signed and agreed to by all jurisdictions though Nova Scotia is explicitly not part.

Mr. Wisocky indicated that the worker's requirement to "elect", will assist in addressing the "shopping for benefits among jurisdictions issue".

Mr. Bates questioned whether any jurisdictions were "limited in their ability to pay". Mr. Wehrmann noted that a limitation exists in Manitoba with respect to permanent impairment amounts. Mr. Wisocky noted that there will be cases where jurisdictions may not be totally reimbursed and that "trust and co-operation" is essential.

It was suggested that option 3 be considered and that this option assists in simplifying the hierarchy (option 3 - where a Board's law and policy permit it to pay the entire cost of the claim based on sufficient exposure within the jurisdiction of that Board, it should proceed with the adjudication of the claim, and pay the entire costs for the claim, without seeking reimbursement for a portion of the claim costs from other Boards).

Mr. Alexander questioned the relationship of Appendix C and this option. Ms. Cosby suggested that a recommendation be brought forward to the Interjurisdictional Agreement Committee with respect to disregarding Appendix C.

Mr. Forbes advised that the jurisdictions may have to pay benefits as per their legislation.

Implementation

Mr. Wisocky proposed that January 1, 1996 be considered as an implementation date for section 7 of the Interjurisdictional Agreement.

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Ms. Fortin noted that further discussion is required with respect to cost sharing as a result of an external tribunal decision. Mr. Wisooky advised that the "exception clause" may assist in addressing this issue.

Extensive discussion took place with respect to section 7.1, 7.2, 7.3, 7.4 and 7.5 a) and b).

It was agreed that a claim is adjudicated and paid by the administering Board if sufficient exposure exists. This type of claim would not be considered under the Interjurisdictional Agreement. Where there is insufficient exposure, an election form is sought and the I.J.A. becomes effective.

It was noted that the total costs are defined by the adjudicating jurisdiction.

It was agreed that notification to other jurisdictions is required upon receipt of an election and disposition of claim. The election form will coincide with the request for information concerning coverage.

It was emphasized that clarification is required with respect to the removal of section 1 b) of the Reimbursement Guidelines (Appendix C). Mr. Alexander and Ms. Crosby suggested the removal of section 1 b).

CSST volunteered to provide French translation of the guidelines pertaining to section 7.

Ms. Fortin noted the necessity to ensure that all jurisdictions have completed appendices which list each jurisdiction's limitations. Ms. Fortin further noted that jurisdictions should ensure that policies are revised where possible to accommodate the agreement and where not possible, documented within the appendix.

Mr. Forbes suggested that a legal opinion be obtained to assist in clarifying the definition of "full cost".

Mr. Hancox suggested a review of the following scenarios to assist with the discussion;

	<u>Exposure</u>	<u>Responsibility</u> (contribution to disability)	<u>Admin.</u> (payment to worker)	<u>Reimbursement</u> (other Jurisd. respon.)	<u>Net</u> (pd by Admin. Jurisd.)
1)	100% A	100% A	100%	-	100%
2)	60% A 40%	100% A	100%	-	100%
3)	70% A 30% B (ie hearing loss)	70% 30%	100% -	30%	70%
4)	33% A 33% B 33% C	0% 0% 0%	As per hier. A pays 100%	- 33% 33%	33%

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Mr. Forbes noted the necessity for clarification with respect to the intention of the Interjurisdictional Agreement as it relates to superseding policy.

Mr. Alexander noted that the intent of the agreement was to assist injured workers who had multiple exposures and would not have been otherwise eligible for benefits in any one jurisdiction.

Guidelines

Agreement was reached with respect to the following guidelines:

1. Worker claims in the jurisdiction where sufficient exposure exists, exposure also exists in another jurisdiction, no reimbursement takes place, worker election is required.
2. Worker has exposure in two or more jurisdictions and all jurisdictions have ability to pay, the jurisdiction where worker applies, provides the worker with the right to elect and that jurisdiction pays the claim with reimbursement.
3. Worker has insufficient exposure in any one jurisdiction but has sufficient Canadian exposure, the worker is given the right to elect and reimbursement is considered subject to statutory limitations.

The following hierarchy would apply:

- (a) the jurisdiction where the longest exposure occurred shall adjudicate.
- (b) the jurisdiction where the most recent exposure occurred will adjudicate when exposure durations are roughly similar.

It was agreed that where the same exposure exists in two jurisdictions, the claim would be adjudicated by the jurisdiction where the exposure was most recent.

The necessity to notify other jurisdictions of payment and election was emphasized.

It was noted that a process for capturing statistics concerning election and payments is required.

Ms. Crosby raised a question concerning "capitalized pension payments". Mr. Wisocky noted that the reimbursement guidelines will assist in addressing this issue.

Mr. Hancock suggested that governing criteria be developed for section 7.6.

General discussion took place regarding what each jurisdiction would consider as an occupational disease.

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Mr. Dunsford noted concern with respect to unwanted costs and requested assurance that the Prince Edward Island W.C.B. would have the right to determine costs.

Mr. Forbes noted concern with Alberta's inability to pay in certain circumstances. It was noted that the section 7 does not contemplate re-adjudication.

Mr. Wisocky suggested that the scenarios, adjudication forms a, b, and election forms be forwarded to the Interjurisdictional Agreement Co-ordinating Committee for their consideration. January 1, 1996 is to be recommended as the effective date for implementation.

Ms. Lecky noted the necessity to obtain further clarification with respect to how jurisdictions are to calculate their portion of reimbursement. Ms. Lecky noted that staffing requirements may be necessary and if this is the case, approval from senior management may be required.

Mr. Alexander suggested that costs reimbursement be handled by a "transfer of assessments" as has been implemented in the trucking agreement. Mr. Wisocky advised that this option would not be effective for the time being. He recommended that a trial period be undertaken and that this approach be considered at the end of that time.

Next Step

Mr. Wisocky noted that the preparation of procedural guidelines is required for review by the Interjurisdictional Agreement co-ordinators in May and the Heads of Delegations in June of 1995.

Ms. Fortin noted the necessity for review of the recurrence and aggravation sections of the agreement.

General discussion took place regarding the advantages of revising the definition of occupational disease to assist in eliminating confusion and providing clarification with respect to what is included.

Ms. Fortin agreed to prepare guidelines for the adjudication of occupational disease under the Interjurisdictional Agreement. The guidelines are to include the scenarios, adjudication and election forms, and an effective implementation date of January 1, 1996.

ACTION POINT: CLAIRE MARIE FORTIN

Mr. Forbes agreed to prepare documentation for the Interjurisdictional Agreement Committee's review and consideration on May 11, 1995.

ACTION POINT: CURTIS FORBES

Mr. Forbes agreed to distribute the document to the subcommittee on occupational disease.

INTERJURISDICTIONAL AGREEMENT MEETING**April 7, 1995****Page 6****ACTION POINT: CURTIS FORBES****Target date May 2nd 1995.****Summary**

Mr. Wisocky requested that the Committee members educate representatives from their jurisdictions with respect to the Interjurisdictional Agreement. Mr. Wehrmann suggested that in the future, this Committee should meet on an annual basis.

Mr. Wisocky confirmed that data will be collected with respect to the experience as a result of section 7.

The meeting adjourned at 4:30 p.m.

prepared by

Brenda Croucher

**MINUTES OF AD HOC COMMITTEE MEETING
ON INTERJURISDICTIONAL AGREEMENT**

2 Bloor Street East, Toronto , Ontario
Board Room, 20th Floor
January 24 & 25, 1994

In Attendance:

Bud DuGas (B.C.)	John McLean (Sask.)
Ed Bates (B.C.)	Terry Murphy (Alta.)
Art Quinn (B.C.)	Douglas Mah (Alta.)
Alan Scramstad (MB.)	Joseph Skerry (N.S.)
Joan Perry (N.W.T.)	Graham Steele (N.S.)
Roberta Houston (Ont.)	Derek Forsey (Nfld.)
Roland Longchamp (Que.)	Katherine Crosbie (Nfld.)
Jean Mercier (Que.)	John Wisocky (A.W.C.B.C.)

Absent:

Representatives from the Yukon, New Brunswick, and Prince Edward Island.

MINUTES:

1. The meeting convened at 8:40 a.m., January 24, 1994. Brian King, Vice Chair of Administration, Ontario, welcomed the representatives. He mentioned that the IJA Agreement was to be taken up with the Board of Directors on January 28, 1994 for signing and implementation. Mr. King focused on the new federal government taking a more pro-active role in Workers' Compensation issues.

Agenda Item #1a - Adoption of Minutes for Meeting of September 2 & 3, 1993

2. Joan Perry (N.W.T.) mentioned that the N.W.T. has no formal knowledge of the claim noted in Appendix 2 between the Yukon and the N.W.T. This is removed from the current Cost Reimbursement Statistics attached to these minutes.
3. Ed Bates (B.C.) moved that the Minutes of the September 2 & 3, 1993 meeting as amended in paragraph 2 above, seconded by Alan Scramstad (MB.). All in favour.

Agenda Item #1b - Business Arising out of the September 2 & 3, 1993 Meeting

4. No further business arising out of the September 2 & 3, 1993 meeting.

Agenda Item #5 - Labour Canada/WCB Agreements for Administering GECA Claims/Federal Workers' Compensation Project

5. John Wisocky (A.W.C.B.C.) outlined that Carol Chauvin Evans, Director, Federal Workers' Compensation Services, Operations Services wants to work with the Boards to sign administration agreements for GECA claims. John further mentioned that 60% of federal claims are with Canada Post. The CFO's of the Board's were to examine which formulas each Board preferred for calculating administrative fees.
6. The Committee was joined by Pam Hillen from the Ontario Board's Legal Branch who indicated that the Ontario Board is ready to table a draft agreement with Labour Canada but, nothing is signed. Ontario wishes to make consistent determinations of employer status. Canada Post is seeking judicial review of the Ontario Board's assertion of re-employment obligations.

Action: Pam Hillen will send to the provinces the draft agreement for information.

7. John Wisocky (A.W.C.B.C.) provided the group with statistics regarding GECA claims, although comparable statistics are difficult to attain. Ontario does not keep GECA claims statistics, but estimates that 2% of total claims are GECA claims.

Action: John Wisocky is to ask Carol Chauvin Evans for 1992 figures.

8. John Wisocky noted that agreements with the Board are most likely a low priority with the federal government since U.I.C. and social benefits are currently being examined.
9. Graham Steele (N.S.) mentioned a recent Supreme Court judicial review in Nova Scotia (Canada Post vs. Johnson, December 31, 1993). The court upheld the N.S. Board's definition of an accident.

Agenda Item #4 - Canadian Trucking Association (CTA) Submission

11. Bud DuGas (B.C.) expressed the following concerns that the B.C. board had about the CTA proposal:

- Does the injured worker have the right to claim in other provinces?
- Is there a bar to law-suit?
- What is the dollar impact to the Boards?
- Does the injured worker still have a right to election?
- Will require procedural changes.
- Issues need to be monitored along with the ITA Agreement.
- How will the agreement impact competitiveness?
- What impacts will there be on personal coverage or assessment of earnings in other provinces?
- There may be some minor pressure on the rates and the industry will need to pick up the costs.

As a result, British Columbia had prepared a Proposal: Interprovincial Trucking Assessment (November 1993). ("B.C. Proposal")

12. The Committee was joined by Ian Welton and Graham Smith from the Ontario Board's Revenue Policy Branch. At which time there was a general discussion of the B.C. proposal.
13. John Wisocky (A.W.C.B.C.) stated that it is up to each representative to sell the agreement to their Board of Directors without hard data as statistics are not available.

Action: Roberta Houston is to write draft guidelines to be circulated to the jurisdictions.

14. Several members felt that there might not be enough time by June 26, 1994 to get Board of Director approval. Many will need time for consultative or community involvement before their Board will approve.
15. The group decided that each jurisdiction must identify their own needs and what information is required such as claim and employer registration information.

Agenda Item #3a - Update on Signing of Amalgamated Interjurisdictional Agreement

16. John Wisocky advised the committee that 10 of the 12 jurisdictions have signed, Ontario and Quebec being the provinces that have yet to sign. Roberta Houston (Ont.) indicated that the recommendation to the Ontario Board of Directors is that it ratify the agreement, subject to certain restrictions relating to Section 7, concerning occupational disease, which shall be set out in Ontario's appendix to the Agreement.

Agenda Item #3c.1 - Final figures from March 1, 1992 to March 1, 1993

17. Representatives provided statistics they had available which are listed in Appendix 3.
18. British Columbia provided statistics which covered a twenty-two month period (see appendix 4).

Agenda Item #3b - Action Plan for Interjurisdictional Agreement

19. The following provinces are participating in the cost reimbursement pilot:

A. Ontario

Assuming that the Board of Directors approve the recommendation requesting ratification of the Agreement, Ontario will go back to a start-date of March 1, 1992. Ontario is willing to pay as long as other jurisdictions are ready to go.

B. North West Territories

To advise at a later date.

C. Manitoba

Has been participating since March 1, 1992 and has received money from B.C. and Alberta. Reimbursements have been made to Saskatchewan and Quebec.

D. British Columbia:

Is participating since March 1, 1992.

E. Newfoundland

Is currently participating.

F. Alberta

Expect to participate effective March 1, 1992 with reciprocating parties, however, there are no systems currently in place.

G. Saskatchewan

Is willing to participate with anyone interested effective March 1, 1992.

H. John Wisocky indicated that New Brunswick, Prince Edward Island, and the Yukon can participate.

20. The following jurisdictions are not participating:

A. Nova Scotia

Is currently working on a determination to participate, but believes they will.

B. Quebec

Will wait until trucking issues are resolved. Will participate by 1995, but not retroactively to March 1, 1992.

Agenda Item #3e - Confirmation of Listed WCB Coordinators

21. All representatives are to ensure updates to list of coordinators are provided to John Wisocky.

Agenda Item #5c - Meeting with Labour Canada Officials on Their Future Plans

22. At 1:45 p.m. the Committee was joined by Carol Chauvin Evans and Gary Seymour, from Labour Canada. Carol mentioned that there has been a major reorganization in public service and that the Federal Workers' Compensation Services has been absorbed by U.I.C., C.P.P, and Citizenship. Her department went from 90 to 27,000 people last June. They are

currently operating without any senior management, reform of GECA will take a long time. She will know by the end of January the regional structure but is unsure how the reporting mechanisms will work.

23. Ms. Evans proposed separate Administrative Agreements be reached with each Board and that unresolved issues be settled later.
24. The cost to administrate the program was discussed. The Federal government feels that the rate was too much. The provinces do not want to administrate two different schemes and question which legislation is being implemented. The following list shows the concerns the Committee has about the administration of GECA claims:
- Who will be making a determination of worker status?
 - Conflicts of whether an accident arose out of employment.
 - Labour Canada insists that the Boards must report to them, this results in the employer determining who is an employer.
 - Tribunals have their absolute power encroached.
 - Workers' Compensation Boards are supported by employer's money not provincial coffers so Boards must be very protective of how money is spent.
 - What will we do when we don't agree, who will make the decision and who will pay?
 - What happens to the people who fall through the cracks?
 - Independent review will determine whose employee is whose, not the employer.
 - Claims have to be counter-signed.
 - Even though this is not a huge problem the Boards require an employer relationship to adjudicate claims.
 - Use of standardized formulas.
 - Can we enforce re-employment against a federal employer?
25. Ms. Evans is of the view that the federal government should maintain the right to determine who works for them. However, the Federal Government is looking at provincial/federal duplication in the next two years. Gary Seymour stated that the Boards must remember that Labour Canada is not the employer and that they act on behalf of the Minister of Labour. They do not represent an employee or an employer.
26. Ms. Evans said she will go back to Ottawa and have a senior official write to each Board to show that the government is willing to work with the provinces and are open to negotiation. In the meantime the committee will speak about a fee formula and report back to her.

Agenda Item #5a - Preferred Fee Formula

27. The following chart indicates which Fee Formula the provinces preferred:

Formula A - Costs	Formula B - Volume	Formula C - Combination
British Columbia	Alberta	Prince Edward Island
Saskatchewan	Manitoba	Newfoundland
Ontario	New Brunswick	
Quebec		
Nova Scotia		

28. It was agreed that the three formulas would be given to the federal government to show good faith and that each province will negotiate individually.

29. The Committee adjourned at 4:20 p.m.
30. The Committee reconvened at 8:55 a.m., January 25, 1994.

Agenda Item #5 Labour Canada Agreements

31. John Wisocky summarized the Labour Canada issues and that he will write to the Heads advising that the Federal Government will write to the Heads individually expressing willingness to negotiate. John will send the three formulas for calculating the administrative fees that the Boards propose to use to the Federal Government. Standardized fees do not seem feasible. The provinces will send a copy of draft agreements to other Boards so they may review and comment.

Agenda Item #4a - Finalize and Approve Proposed Interjurisdictional Trucking Procedural Guidelines

32. The proposal was discussed and it was agreed as follows:
 - A. The assessment procedure is to be set out in an appendix to the Interjurisdictional Agreement.
 - B. The assessment procedure is to apply to interjurisdictional trucking industry only.
 - C. The assessment procedure is voluntary. For the procedure to apply to a trucking firm it will be required to request permission from each Board for the procedure to apply to that trucking firm.
 - D. The arrangement is to be on an interim basis. The target dates is for it to start January 1, 1995, and to run for three years.
 - E. There is to be no change to existing coverage for workers.
 - F. Trucking employers who wish to have this arrangement apply to them shall be required to continue to keep registered in all jurisdictions in which they are carrying on business where they are ordinarily required to register, and the employers must also provide satisfactory proof to those jurisdictions that the employer is paying assessments to one jurisdiction.
 - G. The proposal; will provide an exception to the current assessment practices for interprovincial trucking employers under which they register and pay pro-rated assessment in a number of Canadian jurisdictions. If an employer does not elect to participate in this arrangement, the existing arrangements shall continue to apply.
 - H. This exception will be that where the worker's residence, and usual place of employment and the employer's place of carrying on business are all in the same jurisdiction, the employer may pay all assessments in respect to the worker to that jurisdiction. If the worker is injured in another jurisdiction where the worker is eligible to claim compensation and where he or she elects to claim compensation, this other jurisdiction shall pay the claim, and invoice the jurisdiction in which the assessments were paid in respect of that worker. That jurisdiction will transfer an amount of money to the paying jurisdiction equal to its costs.

33. This appendix is to be drafted by Roberta Houston (Ont.) and circulated to the other jurisdictions by the end of February, 1994.
34. Representatives in each jurisdiction will circulate the proposal to commence the approval process in that jurisdiction.
35. The target is for the requisite approvals and ratifications to be in place so that the appendix may be signed by the Heads of Delegations at their June 26, 1994 meeting.

Agenda Item #3d - Review of Proposed Procedural Guidelines with CTA Officials

36. Laura Kilgour, Director of the Canadian Trucking Association, Michael Burke, Research and Policy Assistant of the Ontario Trucking Association, Ian Welton and Graham Smith joined the meeting to discuss the CTA proposal. Laura Kilgour represents seven regional trucking associations. Their purpose is to find ways to reduce costs and to cut down trade barriers. The main concern about Workers' Compensation is that the industry is being "super-assessed" and the administrative burden in reporting to each jurisdiction. The CTA suggests that employers should be able to pay one Board if the worker lives in the same province that the employer is based.
37. Michael Burke stated that because employers are paying pro-rated assessments based on mileage they are receiving high experience rating charges as a result of varying benefit levels.
38. Response by the Committee to the CTA proposal:
 - Injured worker may have a loss of election in jurisdiction where they were hurt.
 - Financial impacts.
 - Competition field should be even (employer reports to lower rated province).
 - If we should limit the right of an injured worker to claim would we require legislative change.
 - If another province is ultimately responsible there would be a transfer of assessment.
 - Boards will need to dialogue on responsibility.
 - Agreement will only apply to trucking industry for now.
 - Should only be on an interim basis to evaluate the program.
 - Worker and employer status will not change.
 - Potential problem of different provinces regarding Independent Operators as workers or visa-versa from the home province.
 - Boards of Directors will not move unless there is a consultative process, it is imperative that this is supported by the trucking associations or approvals won't be given.
39. Ian Welton indicated that the associations must be made aware of the Independent Operators who do not pay assessments at home. They will not be paying for personal coverage to their home-base. The OTA and the CTA are of the position that Independent Operators benefit by coverage all over the country by paying for personal coverage. The associations will encourage their Independent Operators to get personal coverage.
40. Laura Kilgour thanked the group for their work and the demonstration of sensitivity to the industry problems and for trying to find solutions on behalf of the industry. Laura and Michael left the meeting at 10:45 a.m.

Agenda Item #4a - Finalize and Approve Interjurisdictional Trucking Procedural Guidelines

41. The group decided that :

- they all agree in principle.
- they should work towards targets and authorization.
- there must have a clear contact for these issues.
- identify a trucking person from each jurisdiction to be named on the draft that will go out to each province with their name, position, and phone number.

Agenda Item #6b - Recommendations to WCB Heads re. CTA Submission

42. Boards will look at the draft endorsed by the trucking associations and go through the approval process for ratification on June 26, 1994 by the Heads of Delegation

Agenda Item #6a - Recommendations to WCB Head re. IJA Agreement

43. John Wisocky indicated that the agreements need improvement since it does not treat all employers and injured workers equally with respect to Workers' Compensation purposes. When there are claims in more than one province, hearing-loss due to employment, or re-occurrences there are problems. A small adjudication committee made up of one representative from British Columbia, Quebec, North West Territories, and Nova Scotia will address issues such as:

- Where does the claim get heard?
- How will assessment be transferred?
- How much benefits will be paid?

44. The Committee agreed to recommend that cost reimbursement under the IJA Master Agreement will be extended to January 1, 1996 up to and including December 31, 1995. Statistical information will be based on a calendar year instead of ending in the month of March since the fiscal years end in December. The statistics for 1993 will be from January 1 to December 31, 1993.

45. John Wisocky stressed that each member's organization must be aware of the requirements of the IJA and has recommended that there should be one central contact person.

Agenda Item #7 - Other Business/Next Meeting Date

46. John Wisocky mentioned the importance of getting an election form to avoid injured workers collecting in more than one jurisdiction.

47. It was decided that there is no need for another meeting this year by the Committee unless a need is identified later on in the year.

48. John Wisocky thanked the Committee for their participation.

49. The meeting adjourned at 11:35 a.m.

INTER-JURISDICTIONAL AGREEMENT (IJA) ADJUDICATION SUB-COMMITTEE MEETING

SUMMARY OF MEETING HELD SEPTEMBER 13, 1994

ATTENDEES

John Wisocky, Executive Director, AWCBC
Roberta Houston, Legal Counsel, Ontario, WCB
Lenore Lecky, Director, Complex Case Unit-Diseases, Ontario, WCB
Ken Burkimsher, Program Manager, Complex Case Unit, Ontario, WCB
Claire Marie Fortin, Senior Policy Analyst, Ontario, WCB
Nancy Marchese, Policy Implementation Specialist, Ontario, WCB
Trevor Alexander, Director, Claims, N.W.T. Board
Graham Steele, Legal Counsel, N.S., WCB
Mario Ste-Croix, Director, Claims, Quebec, CSST
Jean Mercier, Legal Counsel, Quebec, CSST
Ed Bates, Legal Counsel, B.C., WCB

INTRODUCTION

John Wisocky briefly explained the objective of the meeting was to define the methodology and operational impacts for implementing the IJA with respect to occupational diseases. He highlighted the importance of the sub-committee identifying problems/concerns with existing processes to ensure the operational needs flowing from the IJA address all relevant aspects. It was also explained that once the issues were identified there would be further opportunities to consult with other jurisdictions. The following is a list of the meeting discussions and action points.

- o Sub-committee members confirmed that they have not received or submitted any diseases claims for cost reimbursement under the new IJA.
- o Sub-committee members clarified the extent of their participation in relation to occupational diseases (note attached chart entitled "Participation and Contact Person For The Interjurisdictional Agreement In Each Jurisdiction"). They also acknowledged the need to revise IJA appendices as a result of the recent statutory amendments raised during the meeting; some policy and operational perspectives may need to be considered as well (e.g. certain Boards do not allow for Chronic Pain Disorder in practice and B.C. maintains a policy that limits entitlement for Chronic Stress).

Action Point: C.M. Fortin to update chart.

- o Sub-committee members agreed to submit the "Participation and Contact Person Listing for IJA" to the other jurisdictions not represented at this meeting to confirm and clarify their participation in relation to occupational diseases.

Action Point: J. Wisocky to circulate updated chart.

- o Sub-committee members agreed to use the revised "Participation and Contact Person Listing for IJA", however, add IJA appendices for detail.

Action Point: J. Wisocky to circulate documents to all jurisdictions.

o In discussing scenarios for cost apportionment in disease claims, three methods of cost reimbursement were identified as follows:

1. With prior agreement for reciprocity and where only these two exposure provinces are involved, each province pays all its own claims with no cost sharing. Cost sharing will occur when more than 2 exposure provinces are involved.
2. Each province will cost share all out-of-province exposure claims irrespective of whether the claim meets the adjudicating Board's criteria for exposure within its own jurisdiction.
- 3(a). If there is sufficient exposure in adjudicating province to allow the claim under Board's policies, adjudicating province pays entire claim.

(b). If insufficient exposure in own jurisdiction and all Canadian exposure necessary, for allowance, then all exposure jurisdictions cost share claim costs proportionally.

o Sub-committee members identified the need to establish a consistent method for cost reimbursement and apportionment prior to implementing s.7 of the IJA, in order to simplify the reimbursement process and bring consistency to the processes.

Action Point: C.M. Fortin to develop draft procedures and J. Wisocky to circulate for next sub-committee meeting.

o Sub-committee members also identified the need to develop standardized forms and procedures prior to implementing s.7 of the IJA in order to effectively administer the IJA (e.g. diseases entitlement form, IJA cost apportionment form, diseases claim summary form, IJA cost reimbursement form). With this, sub-committee members agreed to house the forms and procedures in a separate manual for easy access.

Action Point: C.M. Fortin to develop draft forms and procedures and J. Wisocky to circulate for next sub-committee meeting.

o In light of the above sub-committee members agreed that a recommendation should be submitted to WCB Heads of Delegation to change the effective date for implementing cost reimbursement for occupational diseases claims to March 1, 1995.

Action Point: J. Wisocky to make recommendation at the next AWCBC meeting.

o Sub-committee recognised the need to develop additional scenarios for cost apportionment in disease claims showing the financial impacts (i.e. discount factor) that the injured worker would experience when a jurisdiction is not participating in the reimbursement process.

Action Point: C.M. Fortin to draft scenarios for next sub-committee meeting.

o Sub-committee discussed problems with interpreting the implementation date in relation to occupational disease claims. Discussion ensued on which date applied in disease claims - date of diagnosis, date of decision or date of registration/filing of a claim. Subcommittee agreed to recommend that entitlement under the IJA would apply to all those claims registered on or after March 1, 1995. Benefits would flow from the date of diagnosis.

Action Point: C.M. Fortin to incorporate in policy discussion paper.

Note: For more detail please refer to the attached discussion paper entitled, "Cost Reimbursement Under the IJA".

Agenda item #1 + #2

INTERJURISDICTIONAL AGREEMENT MEETING

Adjudication Sub-Committee on Occupational Disease

MINUTES

Date: November 29, 1994
Time: 10:00 a.m.
Location: Board Room, Head Office

Attendees:

Bud DuGas - British Columbia
Graham Steele - Nova Scotia
Mary Grande - Ontario
Ed Bates - British Columbia
Pam Cohen - British Columbia
Ken Burkimsher - Ontario
Claire Marie Fortin - Ontario
Lenore Lecky - Ontario
Natalie Smurthwaite - Ontario
Brenda Croucher - Ontario
John Wisocky (Chair)
Bob Gunn - Nova Scotia
Doug Carr - Alberta
Joan Perry - Northwest Territories
Dale Schmekel - Yukon
John Mercier - CSST
Mario Ste-Croix - CSST
Pascal Beaulieu - CSST

The meeting convened at 9:00 a.m.

Mr. Wisocky indicated that the purpose of the meeting was to put the occupational disease sections in the Interjurisdictional Agreement into operation and to work towards preparing recommendations to the IJA Committee and Heads of Delegations.

Mr. Wisocky expressed his appreciation and thanked Ms. Fortin for preparing materials for today's meeting.

1. September 13, 1994 Minutes

Ms. Lecky moved a motion to approve the September 13, 1994 Interjurisdictional Agreement Adjudication Sub-Committee Meeting minutes. This motion was seconded by Mr. Bates and approved.

INTERJURISDICTIONAL AGREEMENT MEETING**NOVEMBER 29, 1994**

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2. Adjudication of Occupational Disease Claims

Ms. Fortin referenced a document submitted to the Committee members dated November 15, 1994 which included a package of three scenarios representative of typical occupational disease claims.

Mr. Wisocky noted that the effective date may require revisiting as this issue may not be ready to present to the Heads of Delegations at their January 1995 meeting.

Ms. Fortin reviewed each of the scenarios contained in the correspondence to committee members dated November 15, 1994.

Scenario 1 [Page 1, 2, 2(a)]

Ms. Fortin advised that the intent of distributing the scenarios was to provide each jurisdiction with an opportunity to review and evaluate how the scenarios would apply to their provinces.

Subsequent to Quebec's review, Mr. Ste-Croix advised that although there is no problem with cost reimbursement, there is concern about the internal process and how the costs would be charged to individual employers. Currently, Quebec distributes the costs to all employers. Ms. Cohen suggested that the Quebec Board create a claim.

Mr. Schmekel indicated that the process will not affect rates or experience rating (merit) as the costs are charged to all employers.

Mr. Wisocky questioned how employer information is collected and noted that a mechanism to obtain information for claims processing may require consideration.

Mr. Mercier noted that Quebec may have a legal issue since they are not adjudicating the claim and attributing the costs to individual employers.

Ms. Fortin suggested that it may be of assistance to refer these costs to specific rate groups.

Mr. Carr noted that in this scenario, the adjudicating Board would adjudicate for all jurisdictions and that an issue may exist because no other jurisdiction can adjudicate for other jurisdictions. Ms. Lecky noted that the guiding principles were developed to assist in addressing this issue. Mr. Carr noted the need for "notional adjudication".

Mr. Mercier advised that an issue will exist when employers dispute a claim.

INTERJURISDICTIONAL AGREEMENT MEETING**NOVEMBER 29, 1994**

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General discussion took place regarding how information in other jurisdictions would be obtained. Mr. Burkimsher indicated that it would be difficult for a jurisdiction to obtain information from employers in other jurisdictions and that this information should be confirmed by each jurisdiction. Mr. Carr noted that this should be the responsibility of the adjudicating Board.

Mr. Wisocky noted that it would be more tedious for jurisdictions to obtain information from employers in other jurisdictions. Mr. Wisocky further noted that in cases where the adjudicating Board has identified employers in other jurisdictions, they could contact these employers to obtain relevant information and send it to the other jurisdiction for confirmation.

Ms. Lecky noted that this issue was previously discussed and that there was agreement that the adjudicating Board would send out for this information.

Mr. Steele noted that in Nova Scotia, an issue exists with determining the process to assign costs to employers. Mr. Steele expressed concern regarding the possibility of appeals in several provinces. Mr. Steele further noted that Nova Scotia has difficulty with agreeing to paying benefits at a higher level than what is in their statute. Mr. Steele advised that there is wide discretion to establish a new fund to assist in addressing issues related to assessment.

Ms. Cohen advised that British Columbia sees no problems with this scenario and suggested, for ease, that the adjudicating province gather employer information. This would avoid any adjudication delays that would be experienced as a result of having other jurisdictions gathering information and subsequently submitting it.

Ms. Fortin noted that the Ontario Board can only cost share if other jurisdictions agree to cost share.

Mr. Carr indicated that two issues exist - different entry levels for hearing loss claims and the implementation date.

With respect to the implementation date, Mr. Bates indicated that their Act would not compensate for noise induced hearing loss claims prior to 1975 and that if British Columbia was the first jurisdiction of exposure, the claim could not be paid.

Scenario 2 [3,4, 4(a)]

Mr. Ste-Croix advised that Quebec did not have any difficulty with this scenario and noted that a difference exists with respect to spousal pension. Mr. Beaulieu noted the differences in the benefit levels of other jurisdictions. Ms. Fortin advised that Ontario is discussing the payment of the total ceiling or only the ceiling allowable for that particular claim. Ms. Fortin noted the need for all jurisdictions to review this issue. Ms. Cohen noted that the British Columbia Board would pay the total amount. Ms. Perry advised that this issue requires further discussion with her Board.

INTERJURISDICTIONAL AGREEMENT MEETING**NOVEMBER 29, 1994**

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Mr. Wisocky indicated that there is a need to ensure that terminology is consistent with the terms established by the terminology committee.

Mr. Steele expressed a concern with Boards agreeing to pay for a liability without knowing the full extent of the costs. Mr. Wisocky indicated that approximately 3-5% of reported claims are occupational disease related and that he would not anticipate vast increases in new cases.

Scenario 3 [Page 5, 6, 6(a)]

Mr. St. Croix advised that the costs in scenario 3 are consistent with their statute and that Quebec would be prepared to pay if the adjudicating Board pays when Quebec is the adjudicating Board.

Any limitations concerning a province's ability to pay an occupational disease is to be included as an appendix.

Mr. Steele questioned whether it was possible for all Boards to contribute to a central fund and adjudication be completed by a national body such as AWCBC.

In addition, Mr. Steele questioned whether it would be feasible to have the jurisdictions agree to reimburse in advance and then allow the claim. Ms. Fortin noted that Ontario must allow the claim initially as there is a need to ascertain which jurisdictions are participating and to what extent.

Mr. Steele requested that the guidelines address the adjudication rule with respect to the most appropriate province for a claim to be established based on residency and exposure criteria outlined in the IJA.

ACTION POINT: CLAIRE MARIE FORTIN

Claim Costs Form

Ms. Fortin requested that the committee review the draft standardized claim costs form and provide input to ensure that the form reflects each jurisdiction's needs.

ACTION POINT: COMMITTEE

Mr. Wisocky advised that it may be beneficial to reference the information form developed by the trucking committee.

Mr. DuGas departed the meeting.

3. Cost Reimbursement Under the Interjurisdictional Agreement

Ms. Fortin referenced a document entitled Cost Reimbursement Under the Interjurisdictional Agreement contained in an information package sent by Mr. Wisocky dated October 24, 1994.

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Ms. Fortin noted that at a previous meeting, there were several interpretations of the reimbursement guidelines and that further discussion may be of assistance in gaining a common approach to the reimbursement guidelines.

Ms. Fortin referenced three possible interpretations of the reimbursement guidelines (page 2 table 1) and reviewed each of the options and their advantages and disadvantages.

Ms. Fortin indicated that as there is still an outstanding question concerning assessment costs for Quebec, option 1 will not be considered further today.

Ms. Fortin indicated that in option 2, each Board would adjudicate claims made to it based on the total Canadian exposure and in turn, would seek reimbursement from other Boards in all claims.

Mr. Wisocky requested that each Board confirm that if there was sufficient exposure in their jurisdiction, could they pay in totality. Nova Scotia advised that they could pay in totality with the exception of silicosis and pneumoconiosis. British Columbia and Quebec advised that they would be able to pay in totality. Ms. Perry advised that it is not the Northwest Territory's practice to pay in totality.

It was noted that both British Columbia and Quebec would prefer to request reimbursement.

Ms. Fortin advised that a Board of Director's minute exists in Ontario that states that if there has been exposure in Ontario but insufficient for allowance due to Ontario exposure, full costs of the claim can be paid to workers only if the Ontario Board can be fully reimbursed by jurisdictions who are participating in the cost reimbursement mechanism. Mr. Wisocky suggested that the Ontario Board revisit this issue with their Board of Directors for consideration of situations when other provinces are not participating in the cost reimbursement mechanism.

Mr. Steele confirmed that new legislation in Nova Scotia allows their Board to fully implement the Interjurisdictional Agreement.

Ms. Perry indicated that there are two options within option 2: adjudicating Board pays 100% and seeks reimbursement for other jurisdictions with the understanding that they may not be fully reimbursed or the adjudicating Board reimburses their portion and subsequently communicates with other jurisdictions with respect to their portions and monitor the payments.

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Mr. Carr noted the different compensation rates in Canada and the need for injured workers to recognize this. With respect to option 2, Mr. Carr indicated that the adjudicating Board could advise an injured worker that their claim will be reviewed, the adjudicating Board's portion will be paid, and that the injured worker will be advised that further reimbursement from other jurisdictions would be requested (in accordance with their statutory limitations) and that payment would be reimbursed to the worker according to each jurisdiction's statutory limitations. Mr. Carr emphasized that statutorily, jurisdictions cannot reimburse in excess of their statutory limitations and therefore, questioned why jurisdictions would reimburse the total amount of the claim. Mr. Carr further noted that it is not appropriate for workers to benefit from more than they are entitled to in lower paying jurisdictions.

Ms. Fortin suggested that guidelines be developed to address where a claim could be lodged. Ms. Fortin further noted that in Ontario, if workers have had any exposure, they can claim regardless of duration or residency.

Mr. Carr indicated that injured workers may reside in a jurisdiction with the lowest compensation rates but receive reimbursement from other jurisdictions with higher rates. Mr. Carr suggested that as opposed to paying according to the statute of the adjudicating Board, pay a percentage based on each jurisdiction's own statute. Ms. Fortin advised that this results in "re-adjudicating the claim".

Mr. Schmekel indicated that there must be consideration of the impacts on the employer's assessment premiums.

Mr. Carr indicated that the Interjurisdictional Agreement does not prohibit a worker from claiming in more than one province. Ms. Fortin noted that the IJA is based on the understanding that a worker must elect in writing to claim in only one jurisdiction.

4. OPTIONS FOR COST APPORTIONMENT

Ms. Fortin concluded that duration of exposure was previously agreed to as the basis for determining the percentage of cost apportionment among jurisdictions.

Special Case C - Page 6

Ms. Fortin reviewed the sub-committee's conclusions with respect to non-participating jurisdictions who have contributed to the total Canadian exposure. Mr. Wisocky noted that very few cases exist.

Mr. Gunn departed the meeting.

Dates in Adjudication of Occupational Disease/Disablement Claims under the IJA
(Page 10)

Ms. Fortin reviewed the dates in adjudication for occupational disease/disablement claims under the Interjurisdictional Agreement. An error was noted on page 10, second last sentence, which should read March 1, 1995 as opposed to October 1, 1993.

Mr. Ste-Croix advised that Quebec may have a difficulty with a March 1, 1995 implementation date. Representatives from Nova Scotia, British Columbia, the Yukon, Northwest Territories and Alberta advised that the March 1, 1995 date was achievable.

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A memo dated November 13, 1994 to Mr. Carr was distributed for information. Mr. Carr raised a question with respect to the proposed date of March 1, 1995 concerning the determining of the date of accident or injury.

Mr. Burkinshier advised that Ontario proposes to use the first date the injured worker sought medical attention as the date of inquiry. Date of registration is date first piece of mail is received.

Mr. Carr noted that each jurisdiction should ensure their policies are updated as per the Interjurisdictional Agreement.

Contacts (Page 16)

It was agreed that each jurisdiction would update the participation and contact person listing. The listing should assign operational staff as contacts and that a staff member would be established for an occupational disease contact.

ACTION POINT: JURISDICTIONS/J. WISOCKY

Guiding Principles (Page 17)

Ms. Fortin highlighted the guiding principles for the Interjurisdictional Agreement. The first bullet point was revised to read: "the IJA must ensure that all workers are thoroughly and equitably compensated for work related injuries and/or diseases". Ms. Fortin noted redundancy in the first paragraph, second sentence: "residency and exposure has occurred in more than one jurisdiction". Ms. Fortin undertook to make the appropriate revisions.

ACTION POINT: CLAIRE MARIE FORTIN

It was noted that although residency is not relevant in most cases, section 7 of the Interjurisdictional Agreement states that residency is one aspect of the adjudicating jurisdiction.

Processes for Adjudication (Page 18)

Ms. Fortin referenced and reviewed the processes for adjudication of occupational disease with out-of-province exposure through the IJA. It was agreed that the election form prepared by Ontario (page 19) would be distributed to the Committee for input.

ACTION POINT: CLAIRE MARIE FORTIN

Mr. Carr noted the differences in the interpretation of the term "re-opened" and advised that in Alberta, a "recurrence" is considered a new accident and the term "re-opened" is considered a recurrence.

Point 1 of the processes for adjudication will be revised to read: "is claim registered or recurrence with the Board on or after October 1, 1993? (or whatever date is agreed)".

Ms. Fortin emphasized the necessity of reviewing the processes for adjudication as this process will assist with ensuring effective communication between jurisdictions and establishing how each of the jurisdictions are approaching adjudication.

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Mr. Wisocky thanked Ms. Fortin for preparing the documentation for this morning's discussions.

Mr. Schmekel departed the meeting.

Co-ordination of Committee Activities

Following discussion, the following was agreed to:

- grammatical corrections to the cost reimbursement under the IJA document dated October 19, 1994 would be completed.

ACTION POINT: CLAIRE MARIE FORTIN

- Minutes with an identification of issues which require further discussion to be prepared and submitted to Mr. Wisocky.

ACTION POINT: BRENDA CROUCHER

- key issues identified as a result of this meeting to be referred for review by adjudication experts in each jurisdiction.

ACTION POINT: JOHN WISOCKY

- each jurisdiction will update the "participation and contact person for the Interjurisdictional Agreement in each jurisdiction chart".

ACTION POINT: JURISDICTIONS

- co-ordinate a meeting to discuss input as a result of the review of key issues.

ACTION POINT: JOHN WISOCKY

- establish an approach to address cost reimbursement for occupational disease in preparation for presentation to the Heads of Delegations meeting in June of 1995.

ACTION POINT: IJA COMMITTEE/JOHN WISOCKY

- provide a status report related to the sub-committee on adjudication to the Heads of Delegations in January 1995.

ACTION POINT: JOHN WISOCKY

- prepare correspondence to each jurisdiction requesting that they review the three scenarios which represent typical occupational disease claims and request that a response be prepared and returned to Mr. Wisocky by January 15, 1995.

ACTION POINT: JOHN WISOCKY/JURISDICTIONS

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NOVEMBER 29, 1994
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- the issue of selecting a Chair of the Sub-Committee was deferred to the next meeting.

ACTION POINT: JOHN WISOCKY

Cost Reimbursement

Mr. Wisocky confirmed that the cost reimbursement mechanism has been implemented on a trial basis until January 1, 1996.

Terminology

Mr. Bates agreed to provide Ms. Fortin with a report concerning "terminology".

The meeting adjourned at 1:45 p.m.

Prepared by:


Brenda Croucher

Distribution:

cc: Paul Holyoke
Ken Burkimsher
Claire Marie Fortin
Lenore Lecky
Natalie Smurthwaite

Corporate Executive

**MINUTES OF
AD HOC COMMITTEE MEETING
ON INTERJURISDICTIONAL AGREEMENT
ON WORKERS' COMPENSATION**

Ontario Workers' Compensation Board
2 Bloor Street East, Toronto, Ontario
Board Room, 20th Floor
September 2 & 3, 1993

In Attendance:

Ed Bates (B.C.)	Gareth Perry (Ont.)
Doug Carr (Alta.)	Joan Perry (N.W.T.)
Katherine Crosbie (Nfld.)	Art Quinn (B.C.)
Bud Du Gas (B.C.)	Dale Schmekel (Yukon)
John clean (Sask.)	Alan Scramstad (Man.)
Jean Mercer (Que.)	John Wisocky (A.W.C.B.C.)

Absent:

Representatives from N.B., N.S., & P.E.I.

MINUTES:

1. The meeting convened at 8:35 a.m., September 2, 1993 with opening remarks by Mr. Brian King, Vice Chair of Administration, Ontario. Mr. King welcomed the representatives. He stressed the need for all Boards to work together to solve problems in an equitable fashion for all stakeholders and to assist the Heads of Delegation as they prepare to face the crises in workers' compensation such as NAFTA, American competition for business and possible federal intervention. After completing his remarks, Mr. King left the boardroom.
2. John Wisocky (A.W.C.B.C.) commenced the proceedings with a brief history of the Interjurisdictional Agreement (the "IJA") and indicated that all jurisdictions had signed, with the exception of Quebec, Ontario, Yukon and N.W.T.
3. Jean Mercier (Que) stated that the Quebec Commission was not yet ready to enter into the Agreement and was exploring the feasibility of two agreements: one with Ontario and one with the other provinces and territories. The CSST wished to settle outstanding issues with Ontario first but was optimistic for some progress in the near future.
4. Dale Schmekel (Yukon) stated that he had not yet reviewed the Agreement but would be prepared to recommend acceptance if the Agreement was satisfactory.

5. Gareth Perry (Ont) indicated that the Agreement would be on the agenda for the Ontario Board of Directors meeting on September 17, 1993. She also stated that there would be the possibility of ratification at that time.
6. Joan Perry (N.W.T.) indicated that the N.W.T. was not yet in a position to sign but she would be reporting back to her Board with the information that would be obtained from these meetings.

**Agenda Item #1a - Adoption of Minutes Covering the Meeting of
December 2 & 3, 1992**

7. Gareth Perry (Ont) moved that the Minutes of the December 2 & 3, 1992 meeting be adopted, seconded by Ed Bates (B.C.). All in favour.

**Agenda Item #1b - Business Arising out of the December 2 & 3, 1992
Meeting**

8. Alan Scramstad (Man) stated that he had not provided the copy of the election form, as mentioned in Item 27 of the minutes of the December, 1992 meeting, as the recent revision of the form was unsatisfactory.
9. No further business arising out of the December 2 & 3, 1992 meeting.

**Agenda Item #1c - Status on Signing of Amalgamated Interjurisdictional
Agreement**

10. As there had already been some discussion around this item, John Wisocky (A.W.C.B.C.) focused his attention on two areas: extension of the October 1, 1993 review date for signing and up-dating the List of Co-ordinators. The request to have the date extended to January 1, 1994 was withdrawn after all parties agreed that an extension was unnecessary. The List of Co-ordinators was amended (see Appendix 1) with all Boards agreeing to forward to John Wisocky any changes as these occur.

Action needed by: All Jurisdictions

**Agenda Item #1d - Report on Interim Cost Reimbursement Provisions
Under the Agreement for the Period March 1/92 to
March 2/93**

11. John Wisocky (A.W.C.B.C.) had concerns over the actual handling of claims identified for cost reimbursement and the training of staff in some jurisdictions. B.C., Alberta and Ontario indicated that using one staff member/unit for centralizing handling was most successful. John also emphasized the need for actual exchange of monies for accidents from March 1, 1992. A

number of members indicated that their Boards had begun to exchange monies. It was agreed by all other jurisdictions that once procedures were approved and finalized, cost reimbursement would be implemented.

Action needed by: All Jurisdictions

12. The representatives proceeded to provide the statistical breakdown of claims identified for cost re-imbusement (see Chart, Appendix 2). John Wisocky suggested that the Committee should recommend extending the cost reimbursement trial and Doug Carr (Alta) proposed that it be extended to March 1, 1995. This was seconded by Katherine Crosbie (Nfld). It was agreed that the existing Agreements remain in effect until October 1, 1993, when the Amalgamated Agreement takes effect, but the present Agreements will still be binding on those jurisdictions that haven't signed by October 1, 1993. Finally, John Wisocky (A.W.C.B.C.) charged each jurisdiction to establish their own internal mechanism to handle cost reimbursement.

Action needed by: All Jurisdictions

Agenda Item #1e - Labour Canada Agreements/G.E.C.A.

13. Since there was time on the agenda before the presentation of the next item, John Wisocky (A.W.C.B.C.) asked Ed Bates (B.C.) to provide an overview of discussions of the WCB administrative agreements with Labour Canada at the WCB lawyers' conference on August 18-21, 1993 in Quebec City.
14. Ed Bates (B.C.) provided an overview together with the first draft of a report by the WCB lawyers on the legal issue involved. Ed noted that the draft report had been circulated to the lawyers in each jurisdiction for comment. It was the consensus of that group that the intention of the legislation was that the federal statute had to be interpreted and fully applied by the adjudicating Board and all questions of law and/or fact were the exclusive jurisdiction of the provincial Board. However, there were other issues on which a consensus had not been reached, most notably the question of whether Labour Canada or the adjudicating Board decides the initial question of employee status under GECA. However, since the report was the product of the lawyers' meeting, concerning that meeting, Ed questioned the legality of it being amended by the Committee. Doug Carr (Alta) proposed that the Committee be involved as a centralizing body to report to the Heads of Delegation. General agreement followed that the Committee had the jurisdiction to submit materials, including the report from the lawyers and the Chief Financial Officers, along with its own evaluation, to the A.W.C.B.C. The Association had the power to collect the information and submit it to the Heads of Delegation.

John Wisocky suggested that the Committee might wish to comment on the draft report.

15. There was discussion on the advisability of the Committee of establishing a sub-committee for purposes of liaising with the federal government regarding GECA as it appeared that some of the chief financial officers had found the federal fee formula to be unsatisfactory. However, no consensus was reached. Three issues that would be further discussed in the September 3, 1993 meeting would be:

- 1) a basic contract with appendices for all Boards when dealing with GECA;
- 2) C.F.O's would have to develop viable alternatives re: fee formula;
- 3) need for a small group from the Committee to deal with Labour Canada re which Act, fee formula?

Agenda Item #2 - Trucking Industry

Agenda Item #2a - Overview of Changes to Handling of Truckers by Ontario WCB

16. The Committee was joined by Ian Welton and Graham Smith from the Ontario Board's Revenue Policy Branch and Cathy Belanger from the Employer Registration and Assessment Branch, for a presentation regarding Ontario's handling of owner/operators from July 1, 1993 and its implications for other jurisdictions.

The concern was raised by the representatives from the jurisdictions outside Ontario of truckers entering their respective provinces without compensation coverage, resulting in possible exposure to a lawsuit if an accident occurred (see Appendix 3 for more details).

Agenda Item #2b - Overview and Implications of WCAT Decision No. 1034/89

17. Graham Smith provided a review of WCAT Decision No. 1034/89 and its subsequent reconsideration and reversal in WCAT Decision No. 1034/89R. The Tribunal had reversed its original decision that the driver's presence in Ontario was transitory, therefore, he was not a worker in Ontario. (see Appendix 3 for further details)

Agenda Item #2c - Implications of CTA Proposal

18. With reference to the proposal of the Canadian Trucking Association made at the Committee's December 3, 1992 meeting, Bud Du Gas (B.C.) presented a report on the difficulties B.C. faced as truck drivers changed status crossing borders into different jurisdictions. Bud offered a "practical approach"

which involved the home province registering the employer and collecting assessments and repaying the "accident" province full costs via "assessment transfers" as opposed to cost re-imburement. Bud agreed to submit a report to John Wisocky (A.W.C.B.C.), with review by Ian Welton (Ont) on implementation of the CTA proposal.

Action needed by: Bud Du Gas, Ian Welton

Agenda Item #2d - Positions of WCB's on Submission made by the CTA

19. The representatives proceeded to discuss the report from Mr. Du Gas (B.C.) and the Ontario Board's Revenue Branch handout (see Appendix 3). Concerns were raised over possible problems with "border" clients, e.g. drivers who live in Quebec, especially Hull, work for Quebec companies but are injured in Ontario and claim in Ontario; however there was a consensus that the CTA proposal had merit and was entitled to further review pending the submission of Item #18.

Agenda Item #2e - Further Action Required

20. To assist the Association, John Wisocky (A.W.C.B.C.) requested that all jurisdictions provide him with the assessments from the trucking industry collected per province, the number of trucking accidents and amount of benefits paid. It was requested for the year 1992, and if at all possible a breakdown into interjurisdictional amounts.

Action needed by: All Jurisdictions

21. The Committee adjourned at 4:10 p.m.
22. The Committee reconvened at 8:35 a.m., September 3, 1993.
23. Pam Hillen, Legal Counsel (Ont), joined the proceedings.

Agenda Item #2 - Trucking Industry (cont'd)

24. John Wisocky (AWCBC) proceeded to summarize the previous day's meeting. It was agreed that Gareth Perry (Ont) would provide Dale Schmekel (Yukon) with the Agreement, who would then forward to Joan Perry (NWT), then back to Gareth Perry (Ont) and finally to Jean Mercier (Que). Cost re-imburement would continue to March 1/95 and a motion was to be tabled regarding the trucking industry.

**Action needed by: Dale Schmekel,
Gareth Perry, Joan Perry and Jean Mercier**

25. After discussion, Ed Bates (B.C.) proposed the following motion:

"That all workers' compensation boards move towards a system of eliminating multiple assessment requirements for inter-provincial trucking firms while not compromising the present rights and protections of workers and employers".

Katherine Crosbie moved that this be accepted and John McLean (Sask) seconded. All in favour.

26. As agreed to in Thursday, September 2, 1993's meeting, see Item #18, Bud Du Gas (B.C.) would prepare a report for review by Ian Welton (Ont). A tentative date of October 1, 1993, for completion and submission to John Wisocky (A.B.C.W.C.) was established.

Agenda Item #3 - Agreements between WCB's and Labour Canada for Administration of GECA

27. Pam Hillen (Ont) provided a brief history of Ontario's negotiations with Labour Canada concerning the administration of GECA. She noted that these negotiations were ongoing and that no agreement had been achieved to date. She provided the present status of the judicial review of the WCAT decision regarding the question of whether provincial penalties applied to the federal government. The Ontario Board would be asking for standing on September 7, 1993.

28. Following Pam's presentation, the different jurisdictions proceeded to advise of the status of their negotiations with the federal government. Most jurisdictions had problems with the text and fee formula proposed by the federal government. Quebec already had an agreement in place. Jean Mercier (Que) provided all members with the fee formula that was being used (in French) and indicated that an English version could be provided at a later date. There was a consensus from the Committee that a recommendation be made that no individual Board enter into an agreement without providing the other jurisdictions with a copy for a review. It was also recommended that all the compensation boards co-operate amongst themselves in dealing with GECA. Doug Carr (Alta) recommended that the national office be a conduit for the provinces in providing correspondence and recent developments, especially noting the pending federal election.

Action needed by: All jurisdictions

Agenda Item #4 - Federal Workers' Compensation Project

29. John Wisocky (AWCBC) was advised by Pam Hillen (Ont) that Bill C101 passed and was given Royal Assent. The Bill strengthened re-employment standards for federal workers for both compensable and non-compensable disabilities and extended long-term disability benefits.

Agenda Item #5 - Committee Report and Recommendations to WCB Heads

30. John Wisocky closed the proceedings by summarizing the issues that were reviewed. He also wanted the minutes to reflect the concern that this Committee was the proper avenue to address other issues arising out of the agreements with Labour Canada, e.g. definition of "worker".

Agenda Item #6 - Other Business

31. No other business brought forward.
32. No date was established for the next meeting of the Committee although March/April 1994 would be considered.

Action needed by: John Wisocky

MINUTES OF
AD HOC COMMITTEE MEETING
ON INTERJURISDICTIONAL AGREEMENT
ON WORKERS' COMPENSATION

Ontario Workers' Compensation Board
2 Bloor Street East, Toronto
Board Room, 20th Floor
December 2 and 3, 1992

In Attendance:

Ed Bates (B.C.)	Art Quinn (B.C.)
Doug Carr (Alta.)	Bryan Roberts (N.W.T.)
Katherine Crosbie (Nfld.)	Omer Robichaud (N.B.)
Bud Du Gas (B.C.)	Alan Scramstad (Man.)
Jean Mercier (Que.)	Richard Tingley (N.B.)
Gareth Perry (Ont.)	John Wisocky (A.W.C.B.C.)

Absent:

Representatives from: N.S., P.E.I., Yukon, Sask.

MINUTES

1. The meeting convened at 8:35 a.m. December 2, 1992, at which time those in attendance introduced themselves.
2. Ed Bates (B.C.) reported that the Heads of Delegation at their meeting on November 30, and December 1, 1992 had discussed the Agreement and had confirmed their strong support for it. The Heads of Delegation also indicated that they expected recommendations from the Ad Hoc Committee that are "do-able".
3. John Wisocky (A.W.C.B.C.) confirmed that the 1990 draft amalgamated Agreement (the "Agreement") was not yet in effect, and that the two existing agreements remained in effect. John also emphasized that Quebec had signed the two existing agreements and therefore remained a party to these agreements.

4. Jean Mercier (Que.) indicated there were certain statutory limitations on the Commission complying with the Agreement. Jean stated, however, that he believed that the Commission will be permitted to enter into the new Agreement. Jean also stated that he would make a recommendation to the Commission that it comply with the Agreement.

Agenda Item #1 - Adoption of Minutes Covering the Meeting on November 25, 1991

5. Ed Bates (B.C.) moved that the minutes of the November 25, 1991 meeting be adopted, seconded by Gareth Perry (Ont.). All in favour.

Agenda Item #2 - Business Arising Out of the November 25, 1991 Meeting Minutes

6. No new business arising out of November 25, 1991 Minutes.

Agenda Item #3 - Progress Reports by WCBs

7. Progress reports on the implementation of the pilot projects regarding cost reimbursement and dispute resolution were given. [See Appendix 1] John Wisocky (A.W.C.B.C.) asked those jurisdictions which had not provided statistics to forward them to him, and stated that he would provide copies to the committee members.

Action needed by: John Wisocky (A.W.C.B.C.)

8. John Wisocky (A.W.C.B.C.) indicated that the Boards should be focusing more on recurrences and industrial diseases for cost reimbursement. John also indicated that more complete information was needed regarding the claims involved in the cost reimbursement trial, such as the name of the employer, and whether the employer paid assessments elsewhere. It was agreed that John would provide a format to the Boards indicating what information was needed.

Action needed by: John Wisocky (A.W.C.B.C.)

9. John Wisocky (A.W.C.B.C.) requested that each Board provide statistics (to the end of March, 1993) in accordance with the format he will be providing. These statistics are to be forwarded to John by each Board in early April, 1993.

Action needed by: All jurisdictions

10. Gareth Perry (Ont.) indicated that Ontario presently had two cases before the Appeals Tribunal which involved the Interjurisdictional Agreement. Gareth indicated that there is some question regarding whether the Ontario Board may fully subscribe to the terms of the 1983 Agreement although the Board had previously indicated that it could. John Wisocky (A.W.C.B.C.) requested copies of these decisions when they are issued.

Action needed by: Gareth Perry (Ont.)

11. Doug Carr (Alta.) proposed that the Committee recommend that the cost reimbursement trial be extended from March 1, 1993 to March 1, 1994. Seconded by Ed Bates (B.C.). This motion was agreed to in principle, subject to the results of the statistics made available for the period to March 1, 1993.

Agenda Item #4 - Interjurisdictional Agreement dated July 1990

12. The Committee reviewed the wording of the Agreement and, following extensive discussions, agreed to a number of amendments. These amendments were not substantive in nature but were designed to clarify the language used in the Agreement. [A copy of the Agreement with the changes and agreed to by the Committee on December, 2, and 3, 1992, is attached as Appendix 2.]
13. It was also agreed that the final version of the Agreement to be provided to the Heads of Delegation for signing, would be modified so that it is in gender-neutral terms. John Wisocky (A.W.C.B.C.) undertook to write the final version of the Agreement in gender-neutral terms.

Action needed by: John Wisocky (A.W.C.B.C.)

14. The Committee adjourned at 5:00 p.m.
15. The Committee reconvened at 8:40 a.m., December 3, 1992.
16. The Committee continued its review of the wording of the Agreement and agreed to further amendments to the language. These amendments were not substantive in nature but were designed to clarify the language used in the Agreement. [A copy of the Agreement with the changes proposed and agreed to by the Committee on December 2, and 3, 1992 is attached as Appendix 2.]
17. Upon discussion, it was agreed that time constraints prevented discussion of all of the language changes Committee members would like made to the Agreement. It was agreed that the committee members would review the Agreement and provide written comments to John Wisocky (A.W.C.B.C.) by January 15,

1993 regarding any further changes to the Agreement.

Action needed by: All jurisdictions

Agenda Item #5 - Trucking Industry

18. At 10:30 a.m. the Committee was joined by guest speaker Laura Scott Kilgour, Director, Canadian Trucking Association, (the "CTA"). Ian Welton, Director, Revenue Policy Branch, Ontario Board, joined the Committee to hear Ms. Scott Kilgour's presentation. At 10:50 the Committee was also joined by Michael Burke, of the Ontario Trucking Association.
19. Ms. Scott Kilgour indicated that the CTA had been developing a new three part safety programme consisting of a reference manual, a series of training programmes, and a safety handbook for drivers. She then discussed the problems presently faced by the trucking industry, with respect to workers' compensation including the disparity across Canada concerning the independent operator/worker issue, and the fact that in certain cases trucking employers were "super-assessed" in their home jurisdictions, since this was where their workers claimed benefits, although the employer was paying most of its premiums to Boards outside the home jurisdiction. The CTA was convinced that mileage was not the most appropriate means of assessing truckers. The CTA proposed that truckers pay premiums only to the jurisdiction of the worker's residence and that this jurisdiction be responsible for the claims of those workers.
20. In the general discussion following Ms. Scott Kilgour's presentation she noted that the proposed cost reimbursement mechanism would not alleviate all of the problems being experienced in the trucking industry as it would still be necessary for the trucking employer to pay assessments in many jurisdictions, each with its own rules. In this discussion, the legal difficulties which prevent adoption of the CTA's proposal were mentioned. It was noted that extensive legislative change would be necessary in most jurisdictions before such a proposal could be adopted. Ms. Scott Kilgour also briefly discussed some of the other problems presently faced by the trucking industry including de-regulation, and the difficulties experienced in dealing with many government ministries and departments at both the provincial and federal levels.
21. Ms. Scott Kilgour and Mr. Burke indicated their willingness to take any proposals back to their respective Associations, and thanked the Committee for the opportunity to open up a dialogue with the Boards. Mr. John Wisocky (A.W.C.B.C.) thanked them for their input and they left the meeting at 11:55 a.m.

22. It was agreed that each committee member would prepare comments in response to the proposal of the Canadian Trucking Association indicating whether or not it appeared advisable to pursue the matter. The committee members agreed to forward these comments to John Wisocky by the middle of January, 1993.

Action needed by: All jurisdictions

Agenda Item #4 - Interjurisdictional Agreement dated July 1990

23. It was agreed that each Board would provide John Wisocky (A.W.C.B.C.) with any changes to the list of Interjurisdictional Coordinators as these changes occur.

Action needed by: All jurisdictions

24. A Guide to the Agreement proposed by Art Quinn (B.C.) was discussed and approved. It was agreed that this document would be placed at the front of the Agreement and accompanying documentation. Those changes agreed to are underlined in Appendix 3.

25. It was agreed that each Board would provide an Appendix to the Agreement indicating the extent of the Board's compliance with the Agreement. The New Brunswick draft appendix was discussed as a potential format for the appendices [Appendix 4]. All jurisdictions agreed to provide an appendix regarding its compliance to John Wisocky by January 15, 1993.

Action needed by: All jurisdictions

26. The Committee continued its review of the wording of the Agreement and agreed to further amendments to the language. [A copy of the Agreement with the changes proposed and agreed to by the Committee on December, 2, and 3, 1992 is attached as Appendix 2.]

27. In discussing the proposed changes to the universal election form appended to the Agreement, Alan Scramstad (Man.) indicated that the Manitoba Board had used the form as the basis for its own election form but had made the form easier for the layperson to understand. Alan agreed to provide a copy of the election form used by Manitoba to the other Boards.

Action needed by: Alan Scramstad (Man.)

28. The Committee agreed that the provision regarding the cost reimbursement mechanism would not be expressly set out in the Agreement, but would form an addendum. This addendum would be mentioned in the opening page to the package. John Wisocky

(A.W.C.B.C.) undertook to prepare a package with the Agreement, etc. and to forward copies to all jurisdictions.

Action needed by: John Wisocky (A.W.C.B.C.)

Agenda Item #6 - Updates

29. Bud Du Gas (B.C.) reported that a common approach to W.C.B. auditing of employers was to become operational in 1993 and tabled a report concerning this matter [Appendix 5].
30. John Wisocky (A.W.C.B.C.) reported that the WCB Workers' Advisory Services was concerned about certain gaps in the Agreement, and that it wished to be kept advised of the progress of the Agreement.

Agenda Item#7 - Agreements with Labour Canada for Administration of Claims under the Government Employees Compensation Act (GECA)

31. Earlier in the day, Doug Carr (Alta.) stated that the Heads of Delegation had been advised at their meeting that new federal legislation would be introduced on December 10, 1992, and passed on December 11, 1992, which would replace the Government Employees Compensation Act. It was agreed that an emergency meeting of the Ad Hoc Committee would be called to deal with this issue if necessary. The Committee also agreed not to discuss the agreements with Labour Canada further at this time.
32. John Wisocky (A.W.C.B.C.) undertook to provide all jurisdictions with any further information that becomes available regarding this issue.

Action needed by: John Wisocky (A.W.C.B.C.)

Agenda Item #8 - Other Business

33. No other business brought forward.

Agenda Item #9 - Next Meeting Date

34. A date was not established for the next meeting of the committee. John Wisocky (A.W.C.B.C.) will propose a further meeting when it becomes necessary.

Action needed by: John Wisocky (A.W.C.B.C.)

35. The meeting adjourned at 2:10 p.m.

**MINUTES OF
AD HOC COMMITTEE MEETING
ON INTERJURISDICTIONAL AGREEMENT
ON WORKERS' COMPENSATION**

Workers' Compensation Board of Alberta
9925 - 107th Street, Edmonton
Meeting Room J2103, 2nd Floor
November 25, 1991

In Attendance:

Alan Scramstad (Man.)	Ed Bates (B.C.)
John McLean (Sask.)	Art Quinn (B.C.)
Doug Carr (Alta.)	Gareth Perry (Ont.)
Kip Ready (P.E.I.)	Bryan Roberts (N.W.T.)
Bob Shedden (N.S.)	Dale Schmekel (Yukon)
Eric Rector (N.B.)	Susan Nickerson-Graham (Nfld.)
John Wisocky (AWCBC)	

Absent:

Jean Mercier (Que.)

MINUTES

1. The meeting opened at 8:35 a.m. at which time those in attendance introduced themselves.
2. John Wisocky (AWCBC) made a comment that a proposal has been sent to nine companies to help consolidate comparable W.C.B. financial data. Several Boards have expressed interest in having comparable financial data. John mentioned that he is expecting replies from about six of these companies.
3. Adoption of Sept. 30/91 Minutes: There was a correction made to Page 2 of the minutes. New copies were circulated. The correction was point 5(c) regarding 1.3 of the agreement. ~~The minutes were adopted by Doug Carr (Alta.) and seconded by Ed Bates (B.C.) with this correction.~~ All in favour. *→ moved the adoption of the Minutes* *noted*
4. Dispute Resolution Mechanism: John McLean (Sask.) asked if it was still true that anything agreed to at these meetings by this Committee was

non-binding or could the Heads of Delegations make it binding. It was brought forward that point 1.8 says it is not binding on the parties. After discussion it was agreed to use the Dispute Resolution Mechanism but it would not be binding until the Heads of Delegations agreed.

A draft of the proposed Dispute Resolution Mechanism was distributed by Doug Carr (Alta.) for discussion and agreement. After considerable discussion, Doug Carr (Alta) re-drafted his submission and presented it to the Ad Hoc Committee after lunch. The re-drafted copy was agreed upon with the following changes:

- (a) second paragraph, first sentence, the word "two" should be taken out.
- (b) second paragraph, second sentence, the word "adjudicators" should be changed to "staff."
- (c) second page, last paragraph, the word "parties" should be changed to "disputing Boards."

The Ad Hoc Committee agreed to try cost reimbursement for a one year trial period. Records will be kept when it reaches senior levels as to numbers, details, etc. The effective date to start is March 1, 1992.

John Wisocky (AWCBC) said that if two Boards cannot agree he would like to know about the issue. His advice can be solicited if need be, or the disputing Boards can invoke the involvement of a third party.

This Dispute Resolution Mechanism will be presented to the Heads of Delegations Meeting in January 1992.

John Wisocky (AWCBC) will send copies of the updated Dispute Resolution Mechanism paper with the revised word changes to all jurisdictions. John Wisocky (AWCBC) will also advise of what happens at the Heads of Delegations meeting in January 1992.

ACTION NEEDED BY: John Wisocky (AWCBC)

5. Cost Reimbursement Provisions: A draft of a Cost Reimbursement Provision paper was prepared and distributed by Art Quinn (B.C.). Art Quinn (B.C.) advised this draft was prepared using the format of the old Section 7 (copies distributed) with up-to-date wording and a couple of new sections.

John Wisocky (AWCBC) gave the members present a brief history of Cost Reimbursement. Cost reimbursement was used from 1979 but was stopped in 1982. It was looked at two years later in 1984 and the decision to discontinue reimbursements was confirmed.

John Wisocky (AWCBC) proposed that cost reimbursement be tried for a period of one year, not just keeping records.

The positions of the member jurisdictions were again reviewed. Against the proposal are the Yukon, Prince Edward Island (although said they can live with it for one year except for occupational diseases as set out in their Act), New Brunswick and Nova Scotia. Ontario, Manitoba, Quebec and British Columbia were in favour of cost reimbursement. The Northwest Territories advised that they would only like to do the record keeping for

one year and not try it. Alberta said they were undecided but can live with it for one year as well. Newfoundland was not in a position to comment. Saskatchewan wished time to review the proposal.

It was suggested by Doug Carr (Alta.) that John Wisocky (AWCBC) should go forward to the Heads of Delegations and propose that this is what the jurisdictions would like to try; however, are not in a position yet but would be by the next meeting.

Ed Bates (B.C.) asked that it be mentioned at the Heads of Delegations meeting whether the old Section 7 Cost Reimbursement Provisions paper be reinvoled or go with the new proposal.

As this paper has to be put before the Heads of Delegations meeting scheduled for January 20, 1992, John Wisocky (AWCBC) wants feedback from all jurisdictions on Art Quinn's (B.C.) draft proposal by the end of December 1991. Can you live with the wording of this paper for one year if it is effective March 1, 1992? Also, indicate whether or not you agree with cost reimbursement in principle. Alternatively, the old Section 7 could be reintroduced for the one year trial.

ACTION NEEDED BY: All Jurisdictions

6. Appendices to the Agreement: With the Mutual Aid and Cooperation Agreement, originally seven Boards said they could not subscribe to it. The Yukon subsequently was able to fully subscribe effective 1988.

After a brief discussion, John Wisocky (AWCBC) mentioned that the jurisdictions able to fully subscribe should ensure that they in fact do so in practice.

It was agreed that amended appendices from all jurisdictions would be sent to AWCBC by December 31, 1991 stating the details if a WCB cannot subscribe or affirmation if a WCB can subscribe fully.

ACTION NEEDED BY: All Jurisdictions

7. Other Business:

- a) Election Form: Doug Carr (Alta.) brought to the delegates' attention that the new election form does not cover fatalities. After discussion, it was agreed that Doug Carr (Alta.) and John Wisocky (AWCBC) would re-word the form to include a note that says what to do in the case of a fatality. Form should also include a note to substitute "occupational disease" instead of "personal injury" where applicable. Copies would be sent out to all delegates.

**ACTION NEEDED BY: Doug Carr (Alta.)
John Wisocky (AWCBC)**

- b) Update Coordinators' List: John Wisocky (AWCBC) asked each jurisdiction if the names on the Coordinators' list were correct. Changes were required for the following jurisdictions:

Nfld. - change Maxwell Bursey to Susan Nickerson-Graham
Alta. - change Doug Murray to Doug Carr
N.S. - change Bruce Collins to Bob Shedden for Assessments and General (Ext. 8035) and to Jerry Langille for Claims and Rehab.
Yukon - change Dorothy Drummond (Rehab) to Sheila Lilles, Director of Rehab.
N.B. - change Irv Robertson to Eric Rector.

Changes to the list will be made and John Wisocky (AWCBC) will table the updated list with the Heads of Delegations.

8. Labour Canada Agreement for Administrative Services:

John Wisocky (AWCBC) advised that Labour Canada's claims amount to about 52,000 a year with about 60% being no time lost claims. Overall, Canada Post represents about 60% of the claims. John Wisocky (AWCBC) felt there might be more information in January after the WCB Heads of Delegations meeting as Labour Canada will be providing an overview of their proposals.

There was general consensus at a previous WCB Heads of Delegations meeting that three WCBs would form an Ad Hoc Committee to deal with federal concerns. It was proposed that a letter be sent to Labour Canada indicating the WCBs are prepared and willing to cooperate with federal officials in addressing stated concerns, etc. The proposed letter has not been sent yet.

Discussion took place about the feasibility of a "standardized" agreement between Labour Canada and each WCB jurisdiction. It was noted that current agreements do not appear to be standard.

A number of concerns were shared between WCB jurisdictions. It was mentioned that Labour Canada is becoming more vehement that its Act and policies be interpreted and adhered to rather than following the legislation and policies of individual Boards. One of the policies Labour Canada is very strict about is that adjudication cannot be started by a WCB until Labour Canada co-signs the Employer's Report of Accident. If Labour Canada does not feel the individual is a worker, they will not sign the accident report. Alberta advised that this goes against workers' compensation in general.

British Columbia has concerns with the word "accident" as it is under Labour Canada's Act but not theirs.

Manitoba advised that their cost schedule was not available for this meeting. Their administrative fee includes certain expenses based on audited records. In their agreement, Labour Canada suggested 8% but this is far less than what Manitoba needs.

British Columbia's agreement runs out at the end of March. They just received a letter from Labour Canada which states that the fees charged the Boards across Canada range from 6% to 22%. A financial person at the British Columbia Board states they need more like 28% to 30%. Attached to the letter was a list of what Labour Canada does not want to pay for. It is a list similar to one Manitoba received last year.

Ontario's agreement runs out at the end of the year. They charge Labour Canada 15% of the claim costs. They have similar concerns regarding the co-signing of the Employer's Accident Reports and the long waits involved in the return of the signed forms. Ontario briefly discussed a case that is going to Tribunal. John Wisocky requested a copy of this case.

ACTION NEEDED BY: Gareth Perry (Ont.)

Yukon and Northwest Territories advised they do not handle Labour Canada claims.

Newfoundland advised their agreement has been outstanding since December 31, 1989. They charge Labour Canada 12.5% but it is not clear where this figure came from. Newfoundland advised they have a fairly good relationship with Labour Canada but are experiencing problems with "subcontractors." Yukon mentioned they are also having problems as there are subcontractors who work for the Provincial Government in the morning and the Federal Government in the afternoon.

New Brunswick advised they charge Labour Canada 12.5% based on the benefits paid but would like to go to 15%. They would like the fee to be higher but there is resistance to the price, not the concept. New Brunswick does not include the costs of any of their investments. They do not charge back grants given to Occupational Health & Safety; but would like to. They charge Labour Canada so much per pension cheque. New Brunswick has six deposit accounts and at one time they were all charged the same rate. Now everyone is paying more except Labour Canada. They have not had a lot of problems with claims; except for Canada Post, who lately is appealing everything. New Brunswick feels they have a reasonably good relationship with Labour Canada but they only represent about 2% of their volume of activity.

Nova Scotia's charge back is at 11.5% plus \$10 per pension cheque. This is maybe a break even charge back. The agreement is about one year overdue. Labour Canada picked up all the remnants of the coal mining industry so a lot of Nova Scotia's work deals with pensions. Labour Canada represents about 20% of Nova Scotia's claims but about 80% of the administrative work. The administrative work is compounded by the WCB income tax information slips that were enforced about a year ago. Overall relations with Labour Canada nationally seem antagonistic but contact between the Atlantic WCBs and Labour Canada is reasonable, although not good. Labour Canada is attempting right now to take over from Nova Scotia only the "cream of the crop" types of claims. The Nova Scotia WCB has told Labour Canada to take everything.

Prince Edward Island charges 12.5% but feels their rate should be 16%. However, they get to work with a two month deposit. Canada Post also represents most of Prince Edward Island's problems.

Alberta charges 20% but feels it should be 28% to break even. Alberta has asked Labour Canada for an increase to 21%. A letter has been received from Labour Canada which addresses Section 123 which is Alberta's section on principals' holdbacks. Labour Canada could enter into an agreement, regardless of Section 123, as their legislation is silent on it. Under the Alberta Act, Section 28 says an Employer's Report of Accident must be received within 72 hours. If not, an assessment can be levied against the employer. Alberta has not enforced this legislation yet even though a survey indicated it took 34 days on average to receive an Employer's Report of Accident. A letter was sent to all employers to start complying with accident reporting requirements and that average is down to something like 12 days. Alberta could presently sign their agreement; however, the Board would like to add something about Labour Canada letting the WCB do the adjudication in claims based on Alberta Legislation.

Change - see letter of Dec 17/91

Saskatchewan does not have a percentage figure for charge backs to Labour Canada. They use a formula:

$$\frac{\text{Total admin costs}}{\text{total disbursements of Board}} \times \text{fed. comp. disbs.} + \text{injury disbursements}$$

Saskatchewan's formula works out to about a half million dollars per year. Their relationship with Labour Canada is excellent. Labour Canada has even agreed to give \$300,000 towards the building of their new rehab centre. Saskatchewan does not have a contract with Labour Canada as the old one expired December 31, 1986.

There was a good exchange of information regarding Labour Canada's agreements with the Provincial WCBs, however, it was left that each province would negotiate on its own.

Discussion and agreement took place however, that each Board would send a copy of Labour Canada's agreement to John Wisocky (AWCBC) to be kept for reference.

ACTION NEEDED BY: All Jurisdictions

9. Review of Further Word Changes Proposed by Ontario WCB: This topic was tabled; however, John Wisocky (AWCBC) felt he may get something out before the next meeting of the Ad Hoc Committee on Interjurisdictional Agreement.
10. Other Business:
 - a) Trucking Association: John Wisocky (AWCBC) read a letter received November 4, 1991 from the Canadian Trucking Association. In this letter the Association states Quebec and Ontario may have reached an agreement but this has not been confirmed yet. Gareth Perry (Ontario) advised she has talked to Ian Welton (Ontario) but has not had a chance to do anything about it yet.

**AD HOC COMMITTEE MEETING
ON INTERJURISDICTIONAL AGREEMENT
ON WORKERS' COMPENSATION
Workers' Compensation Board of Ontario
2 Bloor Street East, Toronto
Boardroom, 20th Floor
September 30, 1991 - 8:30 a.m. - 4:30 p.m.**

*No minutes
on record*

AGENDA

A.M.

1. Introductions and Opening Comments.
2. Statement of Principles (Ontario).
3. Form of Election (British Columbia).
4. Dispute Resolution Mechanism (Alberta).
5. Agreement Procedures/Deadlines (British Columbia).

Lunch

Hosted by Ontario WCB.

P.M.

6. Cost Reimbursement Provisions (AWCBC).
7. Standardization of Definitions for:
 - a. worker;
 - b. employer;
 - c. independent operator/proprietor (AWCBC).
8. Handling of Non-Resident Worker and Employer (AWCBC).
9. Coverage of Workers "Passing Through" Other Jurisdiction (AWCBC).
10. Further Rewording of Existing Agreement Clauses (AWCBC).
11. Other Business.

July 26, 1991
0454-91/mcl

**IJA Committee Meeting Minutes
Feb 14 & 15, 1991**

**Volume 1 Transcript 198 pages
Volume 2 Transcript 199 pages**