

**(Updated March 4, 2002)**

FINAL  
IJA COMMITTEE MEETING  
April 20, 2001

Attendees

Greg MacCallum, PEI  
Doug Mah, Alberta  
Patty Cunningham, Alberta  
Ed Bates, British Columbia  
Terry Smith, Saskatchewan  
Natalie Smurthwaite, Ontario  
Jean Landry, New Brunswick  
Donna Strong, Newfoundland  
Donna Allen, Northwest Territories & Nunavut  
Mary-Anne Hook, Northwest Territories & Nunavut  
Catherine Gaulton, Nova Scotia  
Terry Power, Nova Scotia  
Lori Ferguson Sain, Manitoba  
Deborah McNevin, Yukon  
Brenda Croucher, AWCBC

Regrets:

Pascale Goulet, Quebec

Review of Previous Minutes

The September 28, 2000 IJA Committee meeting minutes were reviewed and accepted.  
Minutes to be distributed to the Heads of Delegations

**Action: Brenda Croucher**

Business Arising Out of Previous Minutes

CTA –Input Regarding Effectiveness of IJT

Greg MacCallum advised that the input received from assessment directors requires review.

A letter from the IJA Committee Chair was forwarded to Mr. Bradley, CEO, Canadian Trucking Alliance in the fall of 2000. Greg MacCallum followed up with Betsy Sharpels, CTA, who has advised that their Labour Issues Committee will review the letter on May 7, 2001 and that it is anticipated that positive feedback with respect to the effectiveness of the IJT will be received. An official response from the CTA is expected subsequent to the May 7<sup>th</sup>, 2001 meeting.

The importance of communicating the existence of the IJT was noted.

British Columbia indicated that it is important to obtain input from the CTA regarding the value of the agreement. However, as the agreement allows truckers to pay assessments in only one jurisdiction, it is assumed that the AAP is a positive feature for truckers. It was also noted however that the many operational issues faced by the boards and commissions were equally important in assessing the value of the AAP and it was important that Canadian boards and commissions as well as the CTA find value in the AAP.

Brenda Croucher suggested that the committee consider striking an issues subcommittee to address operational issues.

Northwest Territories and Nunavut noted that although there are small numbers of participants, the AAP works well in their jurisdiction

Manitoba noted that the provincial trucking association is “on side” and that it is important that issues that are operational in nature are kept separate from evaluating the value of maintaining the AAP. It was suggested that the AAP be implemented without a time limit i.e. remove pilot status

Alberta noted their support in moving forward with the continuation of the AAP.

Brenda Croucher noted the importance of receiving input with respect to the effectiveness of the IJT and being prepared to address issues with the Heads of Delegations.

Yukon noted their trucking industry’s support for the AAP and that a longer time frame on the extension of the APP may be desirable and increase the certainty of the appendix.

Ontario noted that there appears to be benefits with the AAP but is difficult to evaluate due to the number of staff handling the AAP process within the WSIB.

Newfoundland advised that further evaluation is necessary.

Nova Scotia suggested extending the AAP with an expiry date and advised that the AAP is working well in Nova Scotia.

It was noted additional requests for similar agreements with other industries would be considered on an individual basis.

#### AWCBC Public Forum on Knowledge Transfer

Brenda Croucher provided an overview of the AWCBC Public Forum on Knowledge Transfer to take place in Toronto, Ontario in November 2001.

#### Independent Operators –Status

The treatment of Independent Operators for purposes of the IJA was discussed. No action has taken place since the previous meeting. The issue relates to under assessment as a result of some employers being excluded from the agreement i.e. self-insured. It was

noted the status of “truckers” could fall in various industries and some may be deemed workers and some may be voluntarily covered. The risk of receiving a reimbursement requests for workers whom boards/commissions may not be aware of was noted. The reimbursement would depend on the status of a worker in a particular jurisdiction.

It was noted that the Assessment Working Group were to review the differences between jurisdictions with respect to the types of coverage in each jurisdiction. i.e. type of coverage, who is considered a volunteer/independent operator etc. At this time, there is no harmonization among jurisdictions.

#### Noise Induced Hearing Loss

Reimar Gaertner, WSIB, joined the meeting.

Background information with respect to correspondence sent to and from the Committee Chair and the WSB was referenced.

Section 7 of the agreement does not include hearing loss claims. As a result, the WSIB does not participate in Section 7 of the agreement. Reimar Gaertner noted that the points supporting the exclusion of hearing loss were based on the difficulties that arise as a result of the different practices among jurisdictions i.e. rating/entitlement. It was noted that this issue exists with other occupational disease included in the agreement and that because hearing loss claims would make up the majority of Section 7 claims, the WSIB would prefer hearing loss to be included as it is the best interest of the worker.

It was noted that the issues outlined in the Chair’s letter of June 6, 2000 were of importance to British Columbia and Quebec with respect to the inclusion of hearing loss claims in Section 7 of the IJA.

Another option discussed to address this issue was to include Section 7 with no reimbursement activity.

It was noted that the decision to continue Section 7 subsequent to expiry December 31, 2001 should not turn on the inclusion or exclusion of hearing loss.

British Columbia noted that Ontario’s points were creditable, that the issues contained in the letter of June 6, 2000 will always be an issue and that it may be of benefit to have a “change in mind set” to include hearing loss and allow for appropriate evaluation.

#### Survivor Dependents Benefits

Following discussion it was agreed that reimbursement of reinstated survivor benefits or special payments will not be pursued.

**Action: Include in Procedures Manual, Brenda Croucher**

#### Working Outside New Brunswick

General discussion took place with respect to the portability of immunity for employers signing up for the AAP. It was suggested that each jurisdiction review whether it

promotes the AAP with the promise of portability of immunity, and if so, to review with respective legal counsel.

**Action: IJA Coordinators**

Alberta was requested to review their brochure to determine commitment with respect to the portability of immunity.

**Action: Alberta**

It was noted during discussion that if an employer signs up for the AAP, the worker has coverage but the employer may not have immunity in jurisdictions other than the home jurisdiction.

IJA/IJT Statistics

The 2000 IJA/IJT statistics received to date were referenced. It was requested outstanding statistics be forwarded to the AWCBC for inclusion in the report.

**Action: IJA Committee**

IJA Evaluation

The Chair thanked Jay Rowland, BC WCB for preparing the IJA Statistics Evaluation report.

Jean Landry joined the meeting.

British Columbia noted disappointment in the national participation in cost reimbursement and concern about recommending a continuation of the cost reimbursement mechanism base on the report.

Manitoba indicated that some jurisdictions may have not had a mechanism to track statistics or may have had a lack of resources. Non-reporting does not necessarily mean that there is no activity or lack of commitment to the IJA. The leadership demonstrated by Alberta and British Columbia was noted.

Ontario noted that they are billing for reimbursement quite actively as they are at full staffing levels.

**Action: Forward statistics to AWCBC Natalie Smurthwaite**

Newfoundland noted that there have been minimal claims and as a result, an administrative system to capture statistics has not been developed.

Nova Scotia advised that their situation is similar to Newfoundland and there has been minimal involvement to date.

It was noted that cost reimbursement is to identify where accidents are occurring and to have jurisdictions, where accidents occur, pay the compensation by way of reimbursement, if the injured worker leaves the accident jurisdiction and claims in the jurisdiction of their residence.

Discussion took place regarding the value and difficulties of capturing election activity.

### Continuance of the IJA

Discussion took place regarding the continuation of Cost Reimbursement (Appendix C), Alternative Assessment Procedure (Appendix E) and Section due to expiry on December 31, 2001.

Following discussion it was agreed to:

- Brief Quebec Committee Member
- Prepare documentation for the IJA Committee's review which captures key points relevant to recommending the continuation of Appendix C & E and Section 7 the until December 31, 2004 (3 Years) for the Heads of Delegations approval.

**Action: Lori Ferguson Sain**

The purpose of continuance for three years is to allow the IJA Coordinators additional time to gain experience prior to recommending permanent inclusion of these components. The inclusion of hearing loss in Section 7 would be discussed during this three-year period.

Provide comments on the above noted document as soon as possible

**Action: IJA Committee**

Include Hearing Loss on the next IJA Committee agenda

**Action: Brenda Croucher**

Bring the total number of hearing loss claims accepted in 2000 to the next IJA meeting.

**Action: IJA Committee**

### #5 Implication of Overlapping Payments

The Committee discussed a practice item raised by B.C. A worker was injured and got benefits from one jurisdiction (the "first WCB"). The worker later moved to the second jurisdiction (the "second WCB"), re-injured the same body part and got benefits from the second WCB. Subsequently, the first WCB determined that the worker's ongoing problems were related to the first injury and the worker was entitled to benefits from the first WCB for the entire period, including the period paid by the second WCB.

Questions: Is this an IJA situation? Should first WCB repay second WCB? Can there be overlapping payments? Is there an overpayment?

Discussion: The Committee's general consensus was that section 8 IJA did not apply in the particular case. There is a possibility of duplicate pension payments to workers although not necessarily duplicate wage loss payments. Each WCB has jurisdiction over the matter. There could be an overpayment by the second WCB, as it would have considered benefits from the first WCB in determining entitlement from the second WCB. The situation is complicated by the retroactive determination by the first WCB.

The consensus was that there is no clear answer to this situation. Even though there is an inter-provincial aspect to the matter, the IJA is not necessarily invoked.

#### #6 - Letters to Workers re: Right of Election

Inter-provincial workers must elect where to claim compensation. Covering letters sent with the election form generally state that workers must elect within 30 days. This can be confusing especially when many jurisdictions can waive the time limit. There was general consensus that the time limit would be waived if another WCB has not already paid the claim.

Nova Scotia has an ultimate limitation of five years that cannot be waived.

Amend covering letter to clarify that the 30-day time limit can be extended or waived.

**Action: Saskatchewan**

#### #7 - FOI/Release of File

There continue to be difficulties obtaining file copies on IP matters. It was noted that in many cases, the worker would have consented to share information as consent is often built into the claim application process. The Committee noted sections 12.1 and 12.3 IJA deal with information sharing among jurisdictions.

IJA Coordinators are to remind staff in their jurisdictions that file information can be shared between jurisdictions, subject to specific statutory or policy restrictions.

**Action: IJA Coordinators**

#### #8 - Correspondence When Requesting Reimbursement

The Committee previously agreed on a protocol for an initial reimbursement request. IJA Coordinators are to remind their jurisdictions to use the protocol established in November 1999 for initial reimbursement requests.

**Action: IJA Coordinators**

#### #8 (a) - Telephone Requests for Information

Alberta generally requires parties seeking file information to do so in writing, so there is a written record of the request and what is sent. Alberta notified the Committee that it will accept telephone inquiries from WCBs under the IJA but Alberta still needs a written inquiry if file material is requested.

#### #8 (b) - Days to First Payment Statistics

The Chief Financial Officers have agreed on specific comparative measures for WCBs. Statistics on days from claim registration to first payment are now publicly available.

The Committee discussed the IJA reimbursement protocols, particularly the two-year time line for requests under Appendix C. An IP reimbursement request could be received two years after the claim was initially filed and paid by the paying board. Claims could also be "double counted," once by the initial paying board and then by the reimbursing board.

The Committee agreed that reimbursement requests should not be included in the days to first pay statistic. Reimbursements **do not** involve payments to workers as contemplated by the statistic. The payments are reimbursements between boards. Similarly, reimbursement requests should not be double counted as a claim by the reimbursing board for the purposes of this statistic.

The Committee agreed that the Chair will write the CFO Chair to clarify the exclusion of claims reimbursement requests from the days to first pay statistic. Reimbursement requests should not be "double counted," nor should they form part of the days to first pay to a worker statistic.

**Action: Chairperson**

#### #3(e) - Working Outside New Brunswick & General Issues of Immunity from Suit

The Committee considered this agenda item on the second day of the meeting. The Committee was interested an update on New Brunswick's employer advisory bulletin on immunity from suit. New Brunswick advised of December 2000 legislation that removes the residency requirement (a previous issue involving Maine residents working in New Brunswick). New Brunswick also advised of increased employer interest in the Alternate Assessment Procedure on Interjurisdictional Trucking (AAP).

The Committee discussed immunity from suit in the context of the AAP. Does the AAP influence an employer's immunity from suit in any way? The Committee reiterated that the IJA governs relations among boards. The IJA does not confer substantive rights on workers and employers. Coverage is a substantive matter governed by the laws of each jurisdiction. Employers are obliged to obtain and maintain coverage in jurisdictions. The AAP does not change this obligation.

#### #9 - Other Business

The Committee discussed Brochure and whether the on-line version is up to date, including the provisions on immunity from suit. The Committee agreed that the Brochure should have a date on it to identify versions.

**Action: AWCBC. Alberta** will amend its trucking brochure to deal with immunity from suit issues.

#### #10 - Next Meeting and Location

The Committee agreed to move to one formal meeting each year, to be held in April. The Coordinators agreed to meet in Toronto, given the central location of this city.

The Committee will convene at the call of the Chairperson. If necessary to deal with matters referred by the Heads of Delegation, the Committee will consider additional meetings.

The Committee supports the use of electronic communications, including e-mail bulletin boards and conference calls to create better communication avenues and means for members to obtain feedback on ongoing matters. Operational issues and questions could be posted centrally, with an exchange of information and ideas.

**Action:** AWCBC is to look into electronic communication avenues such as bulletin boards for IJA Coordinators. This will be an area for future development.

The Committee also discussed the composition of its members. Members agreed to defer discussion of possible changes in composition until after the next meeting in 2002, the first "annual" Committee meeting.

Prepared by Brenda Croucher  
Executive Director  
AWCBC