

# **REPORT ON THE ACTIVITIES OF THE NATIONAL COORDINATOR AND THE COMMERCIAL LAW STRATEGY**

Presented by

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## **INTRODUCTION**

It is with pleasure that I present my report today on the Commercial Law Strategy and my activities as National Coordinator during the past year. It has been a productive, exciting and challenging year and I am very encouraged with the support for the Strategy which has been forthcoming from various sectors of the economy.

I am convinced that most of you will agree that the goal of the Strategy- i.e., the creation of a comprehensive framework of harmonized modern commercial law in Canada, is an ambitious one. The commercial law reform envisaged by the Strategy goes to the very heart of the Economic Union and to Canada's vitality as a competitive trading nation and is an essential ingredient for the growth of business and employment in Canada. Notwithstanding the magnitude of the task, it is imperative that we achieve the goals of the Strategy.

I continue to believe that the Conference is particularly well-positioned to carry out the process of reform of commercial law upon which we have embarked. It has a long history, a reputation for excellence and a unique bi-jural and bilingual approach to its work. With representation from the ranks of all Canadian governments, it has the unequalled ability to develop uniform acts with the ongoing active participation and support of those very institutions which will ultimately be required to implement them. Furthermore, the Conference benefits from the commitment of participants from the academic, law reform and legal communities as well as from its long-standing relationships with its American counterpart, The National Conference of Commissioners on Uniform State Laws (NCCUSL), and relevant international organizations.

In my report to you last August, I outlined my proposed action plan for the coming year. This action plan was based on the priorities established by the members of the Commercial Law Strategy's Steering Committee. These priorities, in order of importance, were raising the profile of the ULCC and the Commercial Law Strategy, encouraging speedy enactment of a number of uniform acts and pressing forward with new and on-going projects.

In the first part of my report today, I will focus on my profile-raising activities. This will be followed by an overview of the status of those uniform acts which were targeted for speedy enactment and brief comments with respect to our current projects. Lengthier reports on the latter will be provided by other presenters later in the meeting.

## **I. PROFILE RAISING**

The enthusiastic support of all Canadian sectors sharing an interest in the modernization and harmonization of commercial law is a sine qua non to the successful implementation of the

Strategy. It was recognized early in the life of the Strategy by the members of the Steering Committee that governments will be more responsive to our recommendations for modernization and harmonization of commercial law where we can demonstrate real need and stakeholder demand. For this reason, raising the profile of the Conference and the Strategy among various stakeholders was determined as our top priority.

#### Development of Relationships with Stakeholders

In order to raise the profile of the Strategy (and by extension, of the Conference), the identification of stakeholders with an interest in the Strategy in general and with respect to its specific elements as well as the development of relationships with them were key.

The "generic" stakeholder groups which were identified prior to the 2000 annual conference for this purpose were Canadian business leaders and organizations, lawyers (both in private practice and in corporations), academics (in legal and business faculties), consumer advocates and government policy advisors. My focus in the past year has been to identify appropriate representatives of these groups and to work towards establishing the desirable relationships with them, thus creating a network of strong and tangible support for the Strategy. As part of these efforts, I have strived to act as a conduit for the dissemination of relevant information and materials to stakeholders.

Through my meetings and discussions with stakeholder groups (See Appendix "A" for a list of these organizations.), I endeavoured to (i) make them aware of the Strategy, (ii) garner their support in principle for its goals, (iii) solicit their suggestions on substantive areas of commercial law which should be included in the Strategy, (iv) identify those areas of particular interest to individual stakeholders in order to permit broad and effective consultations in the and (v) identify experts and volunteers interested in participating in current and future projects.

Support for the goals of the Commercial Law Strategy among the identified stakeholders has been overwhelmingly favourable. There is a broad consensus in the business and legal communities and other sectors regarding the deficiencies of Canada's current economic and legal infrastructure - e.g., the failure of commercial laws to keep pace with business practices and the impact of globalization, the incremental costs flowing from lack of harmonization of laws and regulations, and various barriers to the growth of companies, investment and employment in Canada.

Although reaction to the support of the Strategy by Canada's federal, provincial and territorial governments has been positive, I should nevertheless note the existence of a certain degree of skepticism on the part of some with respect to the likelihood of significant modernization and harmonization of commercial laws actually being achieved. This skepticism has been expressed by representatives of business organizations as well as by practising lawyers and academics.

#### (a) Lawyers

I have spoken to many lawyers throughout the year, both through formal speeches (see Appendix "C") and informally. Lawyers who practice in commercial law (both in private practice and

within corporations) are particularly aware of the problems which arise as a result of lack of harmonization and modernization of Canada's commercial laws. I have therefore encouraged them to bring to my attention issues of concern encountered during their work on behalf of their clients for consideration by our working groups.

Many of these lawyers have expressed an interest in becoming involved in some of our projects, either formally as members of committees or, more frequently, informally by providing input on proposals and drafts. I have been developing a list of such lawyers across the country by area of specialty and have made an effort to keep them informed of developments in those areas of commercial law of particular interest to them. I would like them to be convinced that we are truly interested in their input and that they are in some sense "owners" of the Strategy. This could obviously be done more effectively with more available time and resources. In this regard, the distribution of our newsletter, the UPDATE, has assisted greatly by providing a mechanism for disseminating information regularly and for eliciting feedback on our current projects and possible projects for the future.

#### (b) Business Organizations

Much of what I have said about lawyers also applies to Canadian businesses. I have met and had discussions with over thirty business organizations and associations during the past year (see Appendix "A") and can report that they too are keenly aware of the negative impact on the economy of commercial laws which are out-of-date and different (and sometimes inconsistent) across the country.

Although many organizations representing business interests are successful lobbyists, it has struck me as I have met with them that there is a need for greater cooperation among the disparate groups. Their issues are often similar yet it is my impression that lobbying is usually carried out on an independent basis. I believe that we can make an important contribution to legal reform in Canada by acting as a catalyst to mobilize these groups to act in concert where appropriate. As I meet with them, I have been noting the issues of interest to each group. As we conduct research and make recommendations on uniform acts, we must ensure that they are consulted and given ample opportunity to provide input. In this fashion, we should get the "buy-in" of affected groups and be in a position to advise governments of broad support for recommended uniform acts.

#### (c) Academics

One of the groups identified as stakeholders were academics - both in the legal and business faculties. During the past year, I have met with over 40 of them from 14 different faculties and can report enthusiastic support for the Strategy. Within the legal faculties in particular, there is considerable interest in participating and contributing to the various projects undertaken within the Strategy. In this regard, the deans have been providing me particulars of the professors who teach commercial law and I have been gathering data on professors interested in becoming involved and their areas of expertise.

I should also note, not as a criticism but as an interesting commentary which underlines the

importance of selecting likely "winners" as our projects, that a few professors who have participated in past projects (or were otherwise indirectly aware of them) have expressed some reticence in becoming involved in projects which do not get implemented. Such projects are seen as a waste of time and a discouraging exercise. I would hazard to guess that part of this sentiment reflects the fact that active participation in a failed project does not garner the same respect on a résumé as does participation in the successful development of new legislation. I have sought to reassure them by noting that the Steering Committee is committed to moving ahead only on projects which have broad stakeholder support and are therefore more likely to be enacted by governments.

Another issue which has come up repeatedly in my meetings with academics (and on a couple of occasions with private practitioners) relates to the funding which is available for research. In the past, the Conference has benefited enormously from research conducted on a pro bono basis by both legal academics and private practitioners. Although we continue to attract these volunteers, there appears to be a trend in universities for professors to expect to be compensated for research of this type. This may reflect the prevalence in recent years of well paid "consultants". Another consideration may be the fact that some professors would like to have surveys and the like conducted as part of their work which would require additional funds.

Another related issue is the fact that reports prepared for the Conference do not carry the same weight in the academic tenure and promotion process as do articles in legal journals and books. The CLS Steering Committee is aware of these issues (which, as was noted by Nathalie Des Rosiers, who as you know is a member of the Steering Committee, have also been encountered by the Law Commission of Canada) and is considering how to address them in the future.

As I noted earlier, I have also had discussions with representatives of business faculties. I have concluded that business professors and economists could be valuable contributors to some of our projects. Studies of relevance to the Strategy which have been conducted by business professors include studies on the impact of the legal framework on the Canadian economy and on Canadian competitiveness. This may be an area we may want to pursue as priorities for reform are established.

Another of my activities which involved meeting legal academics was my attendance at Jacob Ziegel's annual conference in the fall. On this occasion, I was able to meet a number of academics from across Canada and beyond who share an interest in law reform, including harmonization in federal states. An excellent report on the Commercial Law Strategy was presented at this meeting by Arthur Close.

#### (d) Consumer Advocacy Groups

We had recognized from the beginning of my mandate that the reform of commercial laws can have implications for consumers and individual Canadians. It was therefore important to seek support and input from this important constituency. In this regard, I held meetings early on in the year with representatives of the Public Interest Advocacy Centre (PIAC) and the Canadian Consumers Association (CAC). Both organizations are very interested in the work of the Strategy and see in it clear benefits for consumers. PIAC has provided a letter formally endorsing

the Strategy and the CAC has undertaken to provide one. This support is in my view critical for the success of the Strategy as governments at all levels are committed to developing a legal infrastructure which addresses the needs and interests of consumers as well as those of other sectors.

We have been particularly fortunate to recruit Philippa Lawson, Counsel with PIAC, to our Steering Committee. Philippa has been very active on behalf of consumers in the reform of consumer legislation both nationally and internationally and is highly regarded by Industry Canada. She has provided very valuable input to the Steering Committee and its deliberations of various issues.

In 2000, Industry Canada had awarded PIAC a grant to enable them to provide input on the Commercial Law Strategy. In the spring of this year, I was asked by Industry Canada to review PIAC's application for further funding for this purpose for 2001-02. As PIAC's application for this funding was successful, we can continue to benefit from PIAC's active participation in our discussions.

#### (e) Endorsements

In my meetings with various groups described above, I have spoken enthusiastically about the commitments of governments to the implementation of the Strategy. However, I have also emphasized that continued government commitment is very much dependent on strong stakeholder support for the goals of the Strategy. In this regard, I have encouraged the organizations with which I have met to provide letters formally endorsing the Strategy, noting that these will be invaluable in demonstrating tangible and broad support for the Strategy.

Letters endorsing the Strategy have now been received from nineteen organizations. These include the Canadian Chamber of Commerce, Canadian Bankers Association, Retail Council of Canada, the Canadian Life and Health Insurance Inc. (CLHIA), Information Technology Association of Canada (ITAC), Insurance Brokers Association of Canada, Public Interest Advocacy Centre (PIAC), Canadian Bar Association (Business Law Section), Canadian Bar Association, Québec Division, Law Commission of Canada, British Columbia Law Institute, Alberta Law Reform Institute, Civil Justice Committee (Officials from Ministries of Justice), the Academy of Legal Studies in Business, the CATA Alliance (Canadian Advanced Technology Alliance) and the Toronto Board of Trade (which copied its letter of endorsement to Jean Chrétien, Brian Tobin, Anne McLellan, Mike Harris, David Young and Norm Sterling). Endorsement letters are expected from additional organizations with which I have met. These must follow their internal corporate procedures before committing themselves to the endorsement. (See Appendix "B" for a complete list of current endorsers and a brief description of each organization.).

Another development which will advance support for the Strategy was initiated by the Toronto Board of Trade, a member of the Canadian Chamber of Commerce. At the annual meeting of the Canadian Chamber each year (to be held in September this year), each member chamber from across Canada is entitled to table up to two resolutions. In this regard, the Toronto Board of Trade decided to table a resolution in support of the Commercial Law Strategy. The resolution

has been approved for submission to the members at the annual meeting by the directors of the Canadian Chamber of Commerce. Should the resolution be adopted, it will bind all member chambers during the coming year, ensuring that they raise their support of the Strategy during their regular meetings with government representatives.

#### Ongoing Communications with Stakeholders and Others

The broad interest in the Commercial Law Strategy, the development of relationships with various stakeholders and the need to maintain their support created the necessity to establish vehicles for regular and effective communications on work being done in the implementation of the Strategy's goals.

#### (a) Commercial Law Strategy UPDATE

To meet this need, it was determined that a newsletter should be launched. Distributed electronically, a newsletter could also provide an inexpensive and efficient way of profiling the work being done to a broader audience and, where appropriate, soliciting comment from interested readers. Two issues have now been distributed electronically to over 5000 recipients including lawyers, academics, government representatives, business and consumer organizations and others. I am grateful to Ken Morlock's firm, Fasken Martineau DuMoulin LLP, for their assistance in designing the lay-out of the newsletter and distributing it electronically.

The feedback received to date has been very encouraging and is a testament to the broad support in Canada for modernization and harmonization of commercial law. The type of feedback is divided among general comments, requests for information and expressions of interest in becoming involved in the Strategy. Not having been previously involved with the preparation and distribution of a newsletter, I must confess to having been somewhat surprised at the fact that readers actually take the time to respond to newsletters. It is gratifying to know that our UPDATE is being read.

In addition to distributing the newsletter to the individuals whose names I have collected in our mailing list, we have been fortunate to be able to distribute it through other means with the assistance of a number of groups. Thus the Law Societies of Nova Scotia and Saskatchewan have distributed it to their members. In addition, the Commercial Law Strategy UPDATE is being posted on the web sites of a number of organizations. These sites include those of Retail Council of Canada (over 7000 members), the Canadian Corporate Counsel Association ([www.cancorpcounsel.org](http://www.cancorpcounsel.org) - over 5000 members), the CBA National Business Law Section ([www.cba.org/Sections/Business](http://www.cba.org/Sections/Business) - over 4000 members), the Association des Juristes d'Expression Française de l'Ontario ([www.webnet/~ajefo](http://www.webnet/~ajefo)) and the CBA Québec Division ([www.abcqc.ca](http://www.abcqc.ca) - over 3500 members). Some of these organizations, as well as the Canadian Bar Association, have also agreed to include on their web site a link to the Conference's website. This will significantly increase the visibility of both the Strategy and the Conference in general and "hits" on the Conference's site.

The distribution of the UPDATE has not been without its technical challenges and we may be obliged to make changes in the future. Currently it is being distributed from a Visto account - a

form of freeware similar to hotmail. We are beginning to experience some difficulties with this free mode of distribution as some large organizations (e.g., Royal Bank) are blocking email from free ware in an attempt to control viruses. Approximately 70 e-mails bounced back to me after the distribution of the second issue - some due to changes in address but some due to these technical issues.

#### (b) Improved Web Site

As I met with various groups, the importance of the Conference's web site as a communications tool became more and more apparent. Indeed I was frequently asked by interested parties if they could access various documents related to the Strategy on the internet. In response to this and in recognition of the role that the internet can play in the dissemination of all materials related to the work of the Conference, the executive of the Conference embarked on a project to significantly improve its web site. Funding for this project in the amount of \$10,000 was provided by the federal Department of Justice. During this process, I met with and had discussions with a number of web designers in order to obtain information on options and cost. The designer eventually selected was one recommended by John Gregory. The Conference is greatly indebted to John for his work in putting together a very professional-looking and informative site.

During the design process, I provided input on the information which should appear in the area devoted to the Commercial Law Strategy. The new site located at [www.ulcc.ca](http://www.ulcc.ca) will provide our stakeholders and others with easy access to uniform acts and commentaries, summaries of projects, reports, issues of the Commercial Law Strategy UPDATE and other information identified as relevant to the Strategy. As noted above, links to our web site have been established by a number of organizations.

#### (c) Articles and Public Speaking Engagements

My profile-raising activities have also involved the publication of five articles on the Commercial Law Strategy and eighteen public speaking engagements across the country. (See Appendix "C" for a list of these.)

Through articles, we have an opportunity to reach out to a wider audience and to involve interested parties in a dialogue on the desirable reforms of commercial law. Most recently, the article which appeared in the June newsletter of the National Business Law Section of the CBA generated a number of e-mails and calls.

In terms of my public speaking engagements, my profile-raising activities were significantly enhanced by the invitation I received to participate as a speaker on a panel at the national conference organized by the Internal Trade Secretariat in Toronto on May 31- June 1, 2001. My co-panelists were Marc Lee of the Canadian Centre for Policy Alternatives and Daniel Schwanen of the Institute for Research on Public Policy. This was a widely attended conference and many participants, including representatives of governments, spoke with me after my presentation to express their interest in the Strategy. The papers presented at the conference will be published in a bound report and made available electronically on the web site of the Internal Trade

Secretariat.

I was fortunate to have an extensive editorial article on my speech written by Neville Nankivell in the June 20 issue of the Financial Post. I was informed that an ad of the size of the article would cost approximately \$13,500 - we are therefore indebted to Mr. Nankivell for having so graciously provided the Strategy with this free advertising!

(d) Report to Council of the Canadian Bar Association

As most of you are aware, the Canadian Bar Association was responsible for the creation of the Uniform Law Conference of Canada in 1918. Its National Business Law Section is now one of the formal endorsers of the Strategy.

As a member of the CBA National Council for approximately 10 years, I have regularly heard legal organizations which have a relationship with the CBA provide reports on their activities at the annual and midwinter meetings of Council. These include the Law Commission of Canada, the Canadian Superior Courts Judges Association, the Canadian Association of Provincial Court Judges, foreign law associations and the like. It occurred to me that it might be appropriate for the Uniform Law Conference to also make an annual report on its activities to Council.

I met with Daphne Dumont, President of the CBA, and informed her of the work of the Commercial Law Strategy which, I suggested, should be of particular interest to members of Council. It was agreed that I would be given the opportunity to make such a report to Council at the August 2001 annual meeting of the CBA. I then raised with the executive the possibility that we might take this as an opportunity to report on the global activities of the Conference. This format was eventually agreed to by the CBA's President and Executive Director and (although I do not have a written commitment in this regard), I believe that a Report from the Uniform Law Conference of Canada will become a regular reporting item at all future annual meetings of the CBA Council. This will provide the Conference with an opportunity to significantly enhance and nurture its profile with Council members from across Canada, making them aware of the Conference's overall activities.

(e) Volunteers and Interested Individuals

As I have mentioned above, throughout the past year I have collected the names and particulars of individuals interested in participating in Strategy projects. Some are prepared to serve as experts while others are interested in providing informal preliminary feedback on draft reports and the like. I have also tried to serve as a conduit of relevant information to these individuals, ensuring that they are kept informed of developments of interest to them at the ULCC, in the jurisdictions and beyond (e.g. UNCITRAL, UNIDROIT and NCCUSL). While I believe this is an essential function of the Strategy, it is proving to be increasingly time-consuming. This could be done much more effectively should administrative support become available in the future.

(f) CBA and NCCUSL

As part of my responsibilities I have maintained a liaison with a number of other legal



organizations to monitor relevant developments. With respect to the Canadian Bar Association, I attended the August 2000 annual meeting (and that of the Canadian Corporate Counsel Association which is held at the same time and place) as well as the August meeting of the executive of the CBA Business Law Section. In December 2000, I made a presentation on the Strategy to the Business Law Section executive meeting in Toronto. At each of these meetings I continually lobbied for support for the Commercial Law Strategy. I also wrote an article on the Strategy for inclusion in the Business Law Section's newsletter which was distributed in June 2001.

With respect to NCCUSL, I have had helpful communications with my counterparts during the year, discussing issues of mutual interest with them. They have provided me with materials on developments relating to UCC articles which are relevant to the Commercial Law Strategy. Where appropriate, I have forwarded copies of these materials to individuals with an interest in their subject-matter. I also attended the November meeting of NCCUSL's Drafting Committee on amendments to articles 2/2A. At this meeting I met a number of lawyers and law professors with whom I have since corresponded for information on different topics.

## II. ENACTMENT OF UNIFORM ACTS TARGETED AS PRIORITIES

As noted in the Introduction, a number of uniform acts were targeted as priorities for enactment during the past year . In order to work towards this goal, I made it a point during my visits with ministers, deputy ministers and other government representatives to encourage them to consider the enactment of such of these acts which had not yet been adopted in their respective jurisdictions. In this regard, and where appropriate, I brought to their attention stakeholders in their jurisdiction which had expressed an interest in seeing specific uniform acts adopted. I also encouraged stakeholder groups with an interest in the enactment of these acts to formally signify their interest to the relevant governments.

Progress with such enactments has been variable and further efforts of Jurisdictional Representatives in this regard would be greatly appreciated. Having said this, I should point out that my meetings with government representatives have made it clear that failure to implement uniform acts is not usually the result of governments' lack of interest in or disagreement with their substance. Rather, it usually appears to be the result of a combination of the following: lack of government resources to carry out the work required for enactment, lack of time on the legislative agenda for a specific uniform act and the failure of interested stakeholders to get together to exert a concerted pressure on governments.

I have emphasized to government representatives, and particularly to those from the smaller provinces, the benefits of having the lion's share of the work done by groups of experts and government representatives through the Conference. This leveraging of resources is very beneficial and should be effective provided that adequate consultations with all jurisdictions and stakeholders occur regularly throughout the process. I would therefore recommend that we remain mindful of the critical need for these broad consultations as we move forward with new projects.

The current status of the uniform acts targeted for speedy implementation is as follows:

## Uniform Electronic Commerce Act

The need for clear, practical and consistent laws governing e-commerce transactions has been evident for several years, becoming particularly acute as a result of the rapidly increasing globalization of business and the borderless nature of electronic commerce.

Recognizing this, in 1999 the Conference adopted the Uniform Electronic Commerce Act ("UECA"). The speed with which this uniform act has been enacted in the jurisdictions is a wonderful success story which demonstrates the importance of involving stakeholders at an early stage in the process, leading to the development of an act which benefits from overwhelming support in the communities affected. Much of the credit for this success goes to John Gregory who spear-headed the project and maximized consultation through masterful use of the internet.

Legislation based on the UECA has now been adopted by Manitoba, Ontario, Saskatchewan, Nova Scotia, PEI, Yukon, British Columbia, New Brunswick and Canada (with variations). All but the New Brunswick act are currently in force. In Québec, Bill 161 (An Act to establish a legal framework for information technology) was recently passed and given Royal Assent but has not yet been proclaimed in force. It takes an approach different from the UECA and is more detailed and prescriptive. Alberta's Bill 21, Electronic Transactions Act, received first reading on May 28, 2001.

## Uniform Cost of Credit Disclosure Act

Cost of credit disclosure legislation was identified as a target for harmonization in the Agreement on Internal Trade ("AIT") signed by all governments in 1994. The Uniform Cost of Credit Disclosure Act was adopted by the Conference in 1998. As you are aware, it is based on a drafting template prepared by the Consumer Measures Committee which leaves significant matters to be addressed in regulations. For effective harmonization to occur, harmonization of both the statute and regulations are therefore required.

Progress on harmonizing this area of the law which is of considerable significance to both businesses and consumers continues to be slow. Alberta was the first jurisdiction to implement the provisions of the Uniform Cost of Credit Disclosure Act in its Fair Trading Act. Relevant regulations adopted by Alberta after extensive consultations have been generally well received by interested parties. For this reason, I have been encouraging other jurisdictions to adopt regulations based on the Alberta regulations.

British Columbia, Nova Scotia and Ontario have also passed legislation based on the uniform act but their acts have not been proclaimed in force and regulations have not yet been made. British Columbia anticipates adopting its regulations on September 1, 2001. Saskatchewan has initiated consultations with respect to this topic.

A number of organizations and their members are very interested in this uniform act. These include retailers and various types of financial institutions. However many have expressed

frustration at the lack of harmonization in an area which, as noted above, was targeted for such harmonization in the AIT. Industry Canada's Consumer Measures Committee maintains a web site which is intended to reflect the current status of implementation of harmonized cost of credit disclosure legislation in the various jurisdictions. Besides being frequently out of date (e.g. some jurisdictions are said to be targeting as their dates of implementation, dates which have already elapsed), the web site is discouraging to interested parties as the time lines provided for enactment now stretch out to 2003.

#### Uniform Liens Act

The Uniform Liens Act adopted by the Conference in 1996 and amended in 2000 was also targeted for speedy enactment. Those of you involved in the Conference for several years will recall that the act improves on the common law by, inter alia, providing for non-possessory statutory liens for repairers, storers and carriers and making it possible to register and enforce an out-of-province lien in the same manner as an in-province lien. A number of groups with which I met (especially those with small business members) have expressed an interest in this act.

Ontario has enacted modern liens legislation. Saskatchewan's Commercial Liens Act, which is essentially the uniform act, received third reading and Royal Assent on June 20, 2001. It will come into force upon proclamation. Nova Scotia's Bill No. 22 ( the Liens Act), which is also based on the uniform act, received first reading on April 9, 2001. Yukon's Jurisdictional Representative, Sydney Horton, has advised that his jurisdiction will be proceeding with this act in the fall and is now initiating its consultation process.

#### Uniform Enforcement of Canadian Judgments and Decrees Act

#### Uniform Court Jurisdiction and Proceedings Transfer Act

The Steering Committee targeted for speedy enactment a couple of uniform acts relating to enforcement law which create a harmonized system for granting and enforcing judgments throughout Canada. The implementation of these acts across Canada would provide businesses operating across provincial boundaries with more certainty that, if difficulties arise in their transactions, their rights and ultimately their judgments will be enforceable. The jurisdiction act provides for Canadian courts to follow a uniform set of rules in determining whether they have jurisdiction to hear a case. Under the enforcement act, a judgment granted anywhere in Canada will be enforced in another jurisdiction in the same manner as one granted by a court of that jurisdiction.

Six jurisdictions (BC, PEI, Saskatchewan, Newfoundland, New Brunswick [with modifications] and Yukon) have enacted the Uniform Enforcement of Canadian Judgments Act (adopted by the Conference in 1992 and amended in 1997 by extending it to decrees) but only PEI has proclaimed its Canadian Judgments (Enforcement) Act in force. On April 9, 2001 Nova Scotia introduced Bill 23, the Uniform Enforcement of Canadian Judgments and Decrees Act.

The Court Jurisdiction and Proceedings Transfer Act adopted by the Conference in 1994 has now been adopted in two jurisdictions (Saskatchewan and Yukon) but neither act is in force. The

provisions of relevant Québec legislation are similar to those included in the uniform acts.

My discussions with government representatives during the past year reveal broad support in principle for these acts. Reasons given for the failure to proclaim them include the need for judges to amend the Rules of Court and the fact that jurisdictions are reluctant to be the first to unilaterally recognize the judgments of other jurisdictions. I would suggest that we might get around this latter issue by arranging for a process of simultaneous proclamations.

These acts are of significant importance to Canadian businesses and citizens. The Family Law Committee which reports to the Deputy Ministers of Justice also has an interest in seeing their enactment as this would assist in the enforcement of orders relating to family law issues. The continued pressure of this Committee and that of the Jurisdictional Representatives and other interested stakeholders should act as an impetus to the adoption of these two uniform acts in all jurisdictions in the near future.

### ICSID

Although the Settlement of International Investment Disputes Act was not specifically mentioned in the list of uniform acts targeted for speedy enactment, I have made efforts to promote its enactment. This uniform act implements the Convention on the Settlement of Investment Disputes between States and Nationals of other States (the "Convention"), opened for signature in Washington on March 18, 1965. At present, the Convention applies in more than 130 countries, including all members of the G-8 with the exception of Canada. As the Convention does not contain a federal state clause, Canada will not accede to it without the support of all provinces and territories. All but Alberta and Québec have now expressed support in principle for the Convention.

The Convention was sponsored by the World Bank in order to facilitate and increase the flow of international investment. It establishes rules under which investment disputes between States and nationals of other States may be solved by means of conciliation or arbitration. It also creates the International Centre for the Settlement of Investment Disputes (ICSID) to administer the cases brought under the Convention.

Ninety-three per cent (93%) of respondents to a recent survey of Canadian businesses on barriers to trade conducted by the Canadian Chamber of Commerce indicated that investor-state dispute settlement provisions were very important to them. ICSID was also specifically mentioned as an issue when I met with Michael Murphy, the Senior Vice-President for Policy of the Chamber.

### III. NEW AND ON-GOING PROJECTS

The Commercial Law Strategy seeks the adoption of uniform acts in areas of commercial law most commonly used in Canada where harmonization and modernization are both desirable and practicable.

A number of projects are now underway under the umbrella of the Strategy on topics chosen for their significance to commercial relations. Efforts are being made to include broad representation

on the relevant working groups (e.g., civil/common law expertise, geographic diversity, private practitioners and academics, etc.). Furthermore, input is being solicited at an early stage from groups I have identified as having a particular interest in a specific subject. In addition, individuals who have expressed an interest in providing informal feedback on early drafts will be given the opportunity to submit comments at the appropriate time. In this fashion, we should achieve the adoption of uniform acts which represent a consensus arrived at following due consideration of a broad spectrum of concerns and, more importantly for implementation purposes, which therefore benefit from extensive stakeholder support.

It was recently decided by the Steering Committee that I should be a nominal member of the working groups for the PPSA, sale of goods, federal secured transactions and civil enforcement of judgments projects. This will make it easier for project leaders to keep me regularly informed of their progress. The active members of the working groups are set out in Appendix "D". As detailed reports on these projects will be provided by other presenters later in the meeting the following are brief summaries of our current projects.

#### Transfer of Indirectly Held Securities (tiered holdings)

The goal of this project is to create new law to deal with rights in securities held indirectly, through an intermediary such as a broker. Current laws do not reflect business reality in this regard and render Canada uncompetitive internationally.

A group consisting of representatives of the Canadian Securities Administrators and legislative counsel from a number of provinces has been working on a draft uniform act for some time. As securities transfers occur in a global market, international developments are being monitored in this process of both modernization and harmonization. I have been informed that a number of delays have been encountered in achieving consensus on an appropriate approach to resolution of the issues encountered. Later during this meeting, Max Paré will be providing us with a report on progress made to date on this very important subject.

#### Federal Secured Transactions

Complaints of inconsistencies, uncertainty and other difficulties relating to security interests under the different federal statutes that regulate particular industries or types of property are frequently made but few agree on how the problems should be resolved. This area of law touches upon a number of topics such as security interests in mobile equipment (e.g. aircraft), security in intellectual property and the interrelationship between section 427 of the Bank Act and the personal property legislation in the provinces. Because of its significance to commerce, a review of this area of law has been included in the Commercial Law Strategy.

In 1999 the Law Commission of Canada ("LCC") offered to conduct some research for the Conference and a project is currently underway to examine federal security interests as they relate to the intellectual property regime.

Howard Knopf (Shapiro Cohen) was retained by the LCC to prepare an issues paper which will form the basis of discussions at a two-day roundtable of experts from industry, the Bar,

government and academia to reflect on these and other issues. The round-table will be held in London, Ontario in November 2001. The first day will consist of a "virtual" discussion with interested parties able to participate electronically from a number of Canadian cities. On the second day, experts will meet to discuss the previous days' proceedings and to identify practical solutions to the problems raised.

This topic is of significant interest to many groups. In meetings with provincial bar members, I have been asked about the possibility of extending the "virtual" participation in the round-table discussions to other cities. I have passed on these requests to the Law Commission of Canada for consideration. I have also passed on the names of individuals from the business and legal communities who have expressed an interest in participating in these discussions.

The members of the Steering Committee of the Commercial Law Strategy are somewhat disappointed with the slow progress on this project as well as with the failure to initiate research on the other subjects which are covered by this topic. Consideration is therefore being given to initiating new projects on federal secured transactions which would be pursued simultaneously with that on federal security interests relating to intellectual property.

#### Personal Property Security Legislation ("PPSA")

PPSA legislation plays a vital role in everyday business activities in Canada. However, relevant Canadian law lacks harmony and has not kept up with developments in business practices and case law. A report regarding possible changes to relevant legislation in the common law jurisdictions was presented to the Conference in August 2000 by Professors Ron Cuming and Catherine Walsh. As you will recall, this report proposed amendments to deal with issues of interpretation, scope and conflicts of laws as well as to address unintended ambiguities and gaps in the legislation. A report on enforcement and registration issues is now being prepared and, together with the 2000 report, will form the basis of a major project whose goal is the adoption of a new uniform act on this subject.

The members of the Steering Committee had originally believed that it would be possible to identify a limited number of issues of practical importance relating to PPSA legislation which are capable of quick resolution with broad support. A "fast-track" project was therefore initiated to research and recommend discrete amendments. In selecting these issues, consideration was to be given to achieving greater harmony among not only the PPSA regimes in the common law provinces but also between those security regimes and the security regime in Québec.

As Ron Cuming will report later in this meeting, this proved to be a more challenging task than expected.

#### Jurisdiction and Consumer Protection in Electronic Commerce

After the August 2000 annual meeting, the Conference and Industry Canada agreed to co-sponsor significant research papers on jurisdictional issues relating to consumer protection with respect to electronic commerce. This represented an extension of the Conference's work on e-commerce generally and reflected Industry Canada's interest in reform in this area and in

consumer protection. Excellent research papers were presented to a meeting of experts in Toronto on April 11, 2001. While Professor Michael Geist's paper focussed on private law aspects, Mr. Roger Tassé's paper dealt with regulatory and public law issues. This meeting, which I attended, generated very interesting discussions of the issues raised. Industry Canada representatives are summarizing the papers, discussions and recommendations. This material will eventually be posted on Industry Canada's web site.

The general consensus of the meeting of experts was that there is a clear need to harmonize in this area and that the Consumer Measures Committee, with the assistance of the Conference, should diligently continue its work in this regard under the umbrella of the AIT. We therefore expect such work to continue in the coming year. This subject will also be discussed in greater detail later in the meeting.

### Sale of Goods

One of the elements of the Commercial Law Strategy relates to a major review of Canadian sale of goods legislation. A report with recommendations was presented to the August 2000 meeting by Professor Jacob Ziegel. Professor Ziegel found that the law on this subject in the common law provinces, which is based heavily on the English statute of 1893, does not conform to what businesses actually do nor does it support commercial expectations. He also noted that this law does not fit well with more modern commercial laws like the PPSA, or with the international regime on the sale of goods. Nor does it take into account the growing significance of electronic sales in the business world.

As a result of this study, the Conference decided to pursue two projects. One will involve a major review of current legislation. Although the 1982 Uniform Sale of Goods Act may form the basis of the new uniform act, it will be reviewed in detail as: (i) there have been many legal, economic and technological changes during the intervening years; and (ii) bar and industry representatives did not participate in the drafting of the 1982 act.

The work will involve the active participation of the bar and industry representatives to ensure the achievement of practical solutions and broad support. Inspiration will be sought in the work done in Québec on this topic in recent years as well as in the international arena. Consideration is also being given to extending the scope of the legislation to cover sale of services.

As it is anticipated that this major review will require considerable time and effort, a fast-track project is being initiated which will focus on sale of goods laws as they apply to electronic transactions. The goal is to determine the inadequacies, if any, of current sales laws in the context of electronic transactions and the extent to which current legislation provides (or does not provide) a minimum level of protection for electronic transactions. This discrete topic can be addressed fairly quickly and is in need of urgent work due to the fact that sale of goods legislation does not contemplate these types of sales. International developments will be considered as part of this review.

Initially Professor Ziegel had indicated his interest in taking on leadership of the fast-track project. However, in February he informed the chair of the Steering Committee that time

constraints would not permit him to take on this work. Since then, Professor Claude Samson of Laval University and Professor Karl Dore of the University of New Brunswick have both expressed an interest in being involved in the project as experts in the law on the sale of goods. Their expertise will be supplemented with that of colleagues whose research interests lie in the area of electronic transactions.

#### Enforcement of Civil Judgments

In many jurisdictions, civil enforcement procedures are antiquated and are dispersed throughout a number of statutes and in the common law. A report presented to the Conference in August 2000 by Professor Lyman Robinson of the University of Victoria recommended that this subject be reviewed as part of the Strategy. This recommendation was accepted at the annual meeting and since then a working group was put together (see Appendix "D ") to conduct research on three issues: (i) pre-judgment measures to "secure" property pending trial (giving consideration to scope and the protection of defendants); (ii) post-judgment enforcement measures (including exemptions); and (iii) registration of judgments in a registry of charges against property. The work will take into consideration recent research on this topic conducted by the Alberta Law Reform Institute which formed the basis of legislation modernizing the civil enforcement regimes of Alberta, New Brunswick and Newfoundland.

Since the 2000 meeting, the government of British Columbia commissioned the British Columbia Law Institute (BCLI) to conduct research on this very topic. The Conference working group is therefore cooperating closely with the BCLI. Both groups are under the direction of Professor Robinson who is an acknowledged expert in this area of law.

A more detailed report on this topic will be presented by Arthur Close on behalf of the working group later in the meeting.

#### IV. GOVERNMENT RELATIONS

The successful implementation of the Strategy depends on the on-going support and participation of all levels of government. This requires that they be kept informed of the activities of the Strategy.

As part of their responsibilities as such, Jurisdictional Representatives appointed by governments are expected to keep their governments informed of developments at the Conference, including those relating to the Strategy. The Jurisdictional Representatives also act as the conduits through which input from governments is provided to the Conference and the Steering Committee of the Strategy.

During the past year I have, as National Coordinator of the Commercial Law Strategy, also taken a number of steps to keep our government members informed. These included writing an article for the fall Communiqué and two reports to the Deputy Ministers of Justice on the activities of the Strategy. The first of these reports was submitted in October 2000 and the second in June 2001. Doug Moen and Jeff Schnoor attended the June meeting of Deputy Ministers and reported to the CLS Steering Committee that reaction to our Report (which was presented on our behalf



by John Whyte, Deputy Minister of Justice of Saskatchewan), had been very positive. Indeed we were informed that virtually everyone who spoke, spoke in favour of the Strategy.

In addition, and as time and resources have permitted, I have endeavoured to meet with representatives of the various governments. As of the date of this report, meetings have been held with representatives of the governments of (in alphabetical order) Alberta, British Columbia, Canada, New Brunswick, Newfoundland, Québec and Saskatchewan (See Appendix "E" for a list of government representatives with whom I met to date.). The purpose of these meetings has been two-fold: (i) to inform governments of the progress of the Strategy, including the significant support which it has garnered in the Canadian business, legal, academic and consumer advocacy communities; and (ii) to solicit their support in implementing the uniform acts in their jurisdictions. The latter is particularly critical as only governments have the capacity to achieve, through the legislative process, the much-needed reforms of Canadian commercial laws.

The government representatives with whom I have met have included ministers, deputy ministers, assistant deputy ministers and others involved in the legislative process in their jurisdictions. They have consistently expressed their strong support for the goals of the Strategy and I am confident that this support will continue. One factor which favours the Strategy in this regard is that it very closely adheres to government policy as formally expressed in the 1995 Agreement on Internal Trade ("AIT") relating to the achievement of uniformity and harmonization of laws.

Furthermore, governments are aware of the expertise which can be made available through the work of the Conference and the resulting efficiencies and economies of scale. They also appear to be convinced that a vibrant and modern legal infrastructure is the life blood of the Canadian economy and essential to the continued prosperity of their citizens and electorate. Governments also realize that ultimately they alone have the ability to create this infrastructure. We, for our part, must make their task easier by garnering the broad stakeholder support required for the enactment of the uniform acts we adopt.

## ACTION PLAN FOR COMING YEAR

Although the purpose of this report is to provide an overview of my activities during the past year and of the progress of the Commercial Law Strategy, I will take a few minutes to review my action plan for the coming year.

The members of the Steering Committee and I have been very encouraged by the overwhelming support for the goals of the Strategy and for the momentum which has been achieved during the past 12 months. Stakeholders are keenly interested in the success of the Strategy, anxious to participate in its elaboration and implementation and encouraging the Conference to expand its work and move more quickly.

A planning meeting of members of the Steering Committee was held on May 4, 2001 to review the achievements and lessons of the past year and to establish priorities for the coming year.

At this meeting, it was agreed that for the Strategy to achieve the desired success in a reasonable time frame, our process must be opened to participation by interested groups from the very beginning - i.e., from the very initiation of projects and the development of policy. Only in this fashion can we ensure the stakeholder input which is so vital to the development of products which benefit from very broad support in Canada.

Although there were discussions of potentially significant increases in future funding which could dramatically impact the manner in which the Strategy moves forward, I will make my comments on future activities based on current funding levels.

### Overall Priorities

The priorities established for the coming year by the Steering Committee, in order of importance, are the following:

- Moving forward current projects and initiating new ones;
- Continuing efforts to raise the profile of the Strategy among stakeholders and nurture those relationships which have been established; and
- Encourage the enactment of the uniform acts targeted for speedy enactment last year.

### Current and New Projects

For the Strategy to maintain credibility, we must ensure the regular flow of projects and their successful implementation across Canada. Our administrative procedures relating to projects will be improved. This will involve the development of criteria for project selection which will emphasize real and practical problems and the likelihood of broad support and enactment. We will also develop a standard retainer letter and manual for working groups which will set out the process to be followed through the different phases of projects and cover issues such as composition of working groups, scope and timing of consultations and the like. We will also endeavour to move projects forward more expeditiously and take appropriate steps to initiate broad and effective consultations with stakeholders across Canada.

Topics now being considered for new projects include franchise law, privacy, criminal rates of interest, issues relating to the Bank Act and provincial PPSA legislation and formal and transactional requirements for cheques.

Experts, interested parties and volunteers will continue to be identified so that we have a broad bank of individuals who can be consulted as required.

### Profile Raising

#### (a) Relationships with Governments

As already noted, the relationship between government representatives and the Strategy is critical to our success. Although the financial support of governments is important, we must also ensure their continued support in principle. Governments must therefore be kept informed and given the opportunity to comment on our projects at an early stage.

During the coming year, I will endeavour to meet with representatives of those governments with which I have not yet had the opportunity to meet. I will also make an effort to maintain communications with those I have met.

I would also like to expand my meetings with government representatives to include Ministers, Deputy Ministers, Assistant Deputy Ministers and others in departments in addition to Justice Departments. In many jurisdictions, certain elements of the Strategy fall within the area of authority of departments other than (or in addition to) the Justice departments and it is therefore important that relationships be developed with these important players.

I will rely on the Jurisdictional Representatives to assist me in keeping their respective governments informed on our work and in advocating with them on behalf of the Strategy and its implementation. In this regard, the Steering Committee has considered the possibility of identifying liaison deputy ministers in the departments impacted by the Strategy.

#### (b) Relationships with Stakeholders

Although much has been done during the past year in terms of raising the profile of the Strategy among stakeholders, it is recognized that this is an on-going process. The relationships established must be nurtured through continuous communications, both to keep our stakeholders informed of our progress as well as, more importantly, to seek their input through regular consultations. I cannot emphasize enough the importance of this in developing uniform acts which have broad support in the community and therefore, a better chance of being enacted in all jurisdictions.

There are many stakeholders who have been identified but not yet contacted due to lack of time and resources. I will try to meet with as many of these as possible to widen the net of support for the Strategy. I would also not want to see the Strategy embarrassed by an inadvertent failure to consult with a key stakeholder. Everyone with an interest in the modernization and harmonization of commercial law in Canada must be made aware of the Strategy. The broader this awareness, the easier it will be for the Conference to act as a catalyst for the reforms we seek.

#### (c) Newsletter

The Commercial Law Strategy UPDATE has proved itself as an excellent communications vehicle. I will continue to produce and improve it as well as expand the mailing list to ensure its broad distribution. In this regard, it is important that the information included in the UPDATE is accurate and timely. I would therefore appreciate Jurisdictional Representatives e-mailing me regularly with news on developments in their jurisdiction.

In terms of the content of future issues, we are also considering including comments/articles by stakeholders. Your suggestions for such contributors and for articles are welcome.

#### CONCLUSION

The past year has literally flown by. It has had its challenges, excitement, successes, rewards and frustrations. It has also been a learning process for me as I have familiarized myself with the history and procedures of the Uniform Law Conference and tried to determine ways in which I could best advance the goals of the Strategy.

I would like to take this opportunity to thank a number of individuals who have helped me in various ways during the past year

- my chair, Ken Morlock, for his continuous support and guidance
- the members of the Strategy's Steering Committee (whose names appear in Appendix "F") who together bring a wealth of knowledge, experience and enthusiasm to our deliberations;
- the President of the Civil Section, Susan Amrud, who steers our ship in a calm and efficient manner;
- the Jurisdictional Representatives who provided me with information on activities in their jurisdictions and assisted in arranging meetings with their government representatives; and
- Claudette Racette - for her book-keeping and accounting support

The Commercial Law Strategy is an exciting initiative with great potential for Canada and Canadians. With the active participation of all stakeholders and the financial and political support of all levels of government, the Strategy will achieve its long-term goal of creating a comprehensive framework of harmonized modern commercial law in Canada which meets the needs for predictability, efficiency and responsiveness, enhances competitiveness, reduces costs, complexities and uncertainties, improves the business climate and removes barriers to trade.

The vision of the federal, provincial and territorial governments which have supported and funded this project is to be applauded. All Canadians will be the direct beneficiaries of the successful implementation of the Strategy. I for one am extremely proud to be associated with this momentous undertaking.

## APPENDIX "A"

### STAKEHOLDERS

#### Business Organizations

Canadian Chamber of Commerce

Canadian Life and Health Insurance Inc. (CLHIA)

Retail Council of Canada

Information Technology Association of Canada (ITAC)

Insurance Brokers Association of Canada (IBAC)

Public Interest Advocacy Centre (PIAC)

Law Commission of Canada

British Columbia Law Institute

Alberta Law Reform Institute

Canadian Finance and Leasing Association (CFLA) and several of its corporate members

Academy of Legal Studies in Business

Saskatchewan Chamber of Commerce

Consumers Association of Canada (CAC)

Canadian Institute of Chartered Accountants (CICA)

Conseil du Patronat du Québec

Business Council on National Issues (BCNI)

Canadian Employers Council (CEC)

Canadian Manufacturers and Exporters

Canadian Apparel Federation (CAF)

Canadian Radio-television and Telecommunications Commission (CRTC)

Association of International Automobile Manufacturers of Canada

Toronto Board of Trade

Provincial Chambers of Commerce

Saskatchewan Chamber of Commerce

Canadian Federation of Independent Business (Saskatchewan Branch)

Canadian Federation of Independent Business (Alberta Branch)

St. John's Board of Trade

Alberta Chamber of Commerce

British Columbia Chamber of Commerce

Fredericton Chamber of Commerce

Canadian Federation of Independent Business (New Brunswick)

Canadian Franchise Association

Canadian Wholesale Drug Association

Used Car Dealers Association

Legal Academics (Law Schools)

University of British Columbia

University of Calgary

Laval University

McGill University

University of Montréal

University of Ottawa - civil law section and francophone professors of common law section

Université du Québec à Montréal

University of Saskatchewan

University of Sherbrooke

University of Toronto

University of Victoria

University of New Brunswick

York University

UQAM

Business Faculty Academics

Queens University

Waterloo University

University of Toronto

University of Western Ontario

Memorial University

Lawyers

Canadian Bar Association, Executive of National Business Law Section

Canadian Bar Association, Québec Division

Canadian Corporate Counsel Association (CCCA)- presentation at spring conference

Association des juristes d'expression française de l'Ontario (AJEFO)

Barreau du Québec

Alberta Branch of CBA - speeches in Calgary and Edmonton

BC Branch of CBA

Saskatchewan Branch of CBA - speeches in Regina and Saskatoon

CBA Council - report to be given in August

CBA International Law Section

Law Society of Newfoundland

APPENDIX "B"

ENDORSERS

Canadian Bankers Association

The Canadian Bankers Association (CBA) is a professional industry association that provides its members - the chartered banks of Canada - with information, research, advocacy and operational support services. Established in 1891, the CBA is the main representative body for banks in Canada and today represents over 40 domestic and foreign-chartered banks in Canada

Canadian Life and Health Insurance Inc. (CLHIA)

The CLHIA, established in 1894, represents 79 life and health insurers in Canada. The Association's membership accounts for some 98 per cent of the life and health insurance in force in Canada and administers about two-thirds of Canada's pension plans.

## Retail Council of Canada

Retail Council of Canada (RCC) is a not-for-profit, industry-funded association whose more than 8,500 members embrace all retail formats, including department, specialty, discount and independent stores, and online merchants. More than 90% of its members are independent store owners. Collectively, RCC members account for two-thirds of Canada's general-merchandise retail market.

## Information Technology Association of Canada (ITAC)

ITAC is the voice of the Canadian information technology industry. Together with its partner organizations across the country, the association represents 1,300 companies in the computing and telecommunications hardware, software, services, and electronic content sectors. This network of companies accounts for more than 70% of the 512,000 jobs, \$116.4 billion in revenue, \$4.4 billion in R&D expenditure and \$30.8 billion in exports that IT contributes annually to the Canadian economy. ITAC's mission is to identify and lead on issues that affect our industry and to advocate initiatives, which will enable its continued growth and development.

## Insurance Brokers Association of Canada

The Insurance Brokers Association of Canada (IBAC) is the national trade organization which brings together eleven regional associations of independent property and casualty insurance brokers in Canada. These associations represent approximately 25,000 brokers throughout the country. The functions of IBAC include a leadership role in the insurance industry's consultation process with Government as well as licensing courses and education programs distributed through the regional associations.

## Public Interest Advocacy Centre (PIAC)

PIAC is a non-profit organization that provides legal and research services on behalf of consumer interests and, in particular, vulnerable consumer interests, concerning the provision of important public services. As such, PIAC fills in the gaps of the advocacy system. PIAC addresses legal and regulatory issues of national interest in areas that are not generally served by the private bar, provincial aid systems and by other organizations.

## Canadian Bar Association (Business Law Section)

The Canadian Bar Association is the national organization of lawyers in Canada. Included in its mandate are the promotion of fair justice systems, the improvement of the administration of justice and the facilitation of effective law reform. The Canadian Bar Association National Business Law Section has 4,604 members across Canada. These lawyers practice law in areas affecting business, commerce, trade, mercantile pursuits and banking.

## Canadian Bar Association, Québec Division



The Canadian Bar Association is the national organization of lawyers in Canada. Included in its mandate are the promotion of fair justice systems, the improvement of the administration of justice and the facilitation of effective law reform. The Canadian Bar Association has Branches in each of the provinces and territories. The Québec Division approximately 3,500 members, most of which are in private practice.

#### Canadian Chamber of Commerce

The Canadian Chamber of Commerce is Canada's largest, most important and influential advocate for business in Canada. It is the only national business group with a membership that covers the broad spectrum of private enterprise and the only non-political, non-profit association with an organized grassroots network of community chambers in every single federal riding. Its goal is to foster a strong, competitive economic environment that benefits Canada and all Canadians. Its customers reflect a strong, diverse network and include: chambers of commerce, boards of trade, corporate members, business associations - businesses of all sizes in all regions as well as non-members who purchase our products and services. The Canadian Chamber is the national and international voice for Canadian business. Its mandate is to create a business climate of competitiveness, profitability, and job creation for businesses of all sizes in all sectors across Canada.

#### Law Commission of Canada

The Law Commission of Canada is an independent federal law reform agency that advises Parliament on how to improve and modernize Canada's laws. Its work is structured around the following four complementary themes of Personal Relationships, Social Relationships, Economic Relationships and

Governance Relationships.

#### British Columbia Law Institute

The British Columbia Law Institute was created in January 1997 by incorporation under the Provincial Society Act. The broad purposes of the Institute are to promote the clarification and simplification of the law and its adaptation to modern social needs, to promote improvement of the administration of justice and respect for the rule of law, and to promote and carry out scholarly legal research.

#### Alberta Law Reform Institute

The Alberta Law Reform Institute conducts and directs research into law and the administration of justice. It considers matters of law reform with a view to proposing to the appropriate authority the means by which the law may be made more useful and effective. To promote law research and reform.

#### Civil Justice Committee

This is composed of officials from Ministries of Justice

#### Ford Credit Canada Limited

Ford Credit is the world's largest finance company dedicated to serving the automotive industry. It provides a wide range of financial products and services to retail customers and dealers. Ford Credit's Commercial Lending operation finances car and light truck fleets, as well as medium and heavy trucks. Ford Credit Canada Limited is the Canadian subsidiary providing these services in Canada.

#### VW Credit Canada, Inc.

VW Credit provides a range of financial products and services to its retail customers and dealers.

#### Academy of Legal Studies in Business

The Academy of Legal Studies in Business is an association of teachers and scholars in the fields of business law, legal environment, and law-related courses outside of professional law schools. Its members teach primarily in schools of business in colleges and universities, at both the undergraduate and graduate levels.

#### Saskatchewan Chamber of Commerce

The Saskatchewan Chamber of Commerce is the Saskatchewan arm of the Canadian Chamber of Commerce. It represents businesses of all types and sizes in the province of Saskatchewan.

#### CATA Alliance (Canadian Advanced Technology Alliance)

CATA Alliance is Canada's leading, most influential and entrepreneurial technology alliance. It is committed to growing the global competitiveness of its members, 80% of which are currently active exporters. The common purpose that unites the membership is CATA Alliance's commitment to members' business growth. With offices across the country, CATA is focussed on the provision of business services and government relations programs that conserve and leverage member resources. Because members are action-oriented businesses, CATA Alliance responds with action when members need specific services or activities. The "Traditional Champion" of Canadian research and development, CATA Alliance's mission is to stimulate "Global Business Growth" through the forces of Canadian innovation and strategic partnership.

#### Toronto Board of Trade

The Toronto Board is Canada's largest local chamber of commerce providing over 10,000 members with the tools to build their business success. The Board provides public policy advocacy through its volunteer working groups that advocate for issues affecting the business community in Toronto. The Board believes that the best way to create jobs, wealth and a healthy tax base is to provide a healthy environment in which to do business. The Toronto Board has advocated for business property tax reform, education reform and financing, economic

development, local governance, and an efficient and sustainable physical infrastructure.

## APPENDIX "C"

### PRESENTATIONS AND ARTICLES

#### PRESENTATIONS

September 22 - Leasing Executives Group

October 13 - Laval University

October 23 - Barreau du Québec, Montréal

October 24 - Centre du droit des affaires et du commerce international, U of Montréal

October 25 - Information Technology Association of Canada (ITAC)

December 2 - Executive of CBA National Business Law Section

February 13 - Federal Government lawyers and directors from various departments

February 13 - Ottawa University

February 26 - Canadian Bar Association in Regina

February 27 - Canadian Bar Association in Saskatoon

March 26 - Canadian Bar Association in Calgary

March 27 - Canadian Bar Association in Edmonton

April 19, 2001 - Canadian Bar Association in Vancouver

April 23, 2001 - Canadian Corporate Counsel Spring Meeting, Victoria

May 1, 2001 - Toronto Board of Trade

June 1, 2001 - National Conference on "Strengthening Canada - Challenges for Internal Trade and Mobility" organized by the Internal Trade Secretariat

June 14 - Canadian Bar Association in St. John's

June 23 - Association des juristes d'expression française - cancelled due to illness

#### ARTICLES

Newsletter of the Association des juristes d'expression française de l'Ontario (French article)

Proceedings of the National Conference of the Internal Trade Secretariat

Newsletter of British Columbia Chamber of Commerce

CBA National Business Law Section Newsletter June 2001 issue

Editorial by Neville Nankivell, June 20 issue of Financial Post

## APPENDIX "D"

### WORKING GROUPS

Transfer of Indirectly Held Securities (tiered holdings)

Legislative drafters of Alberta, British Columbia, Ontario and Québec

Representatives of the Canadian Securities Administrators

Enforcement of Civil Judgments

Arthur Close (BC Law Institute), Darcy McGovern (Saskatchewan Justice), Tim Rattenbury (New Brunswick Justice), Professor Williamson (UNB), Chris Curran (Newfoundland Justice), Geoff Ho (Alberta Justice) and Manon Dostie (Justice Canada).

Jurisdiction and Consumer Protection in Electronic Commerce

Preliminary studies by Michael Geist (Ottawa U) and Roger Tassé (Gowling's)

Sale of Goods

Being determined.

### PPSA

Professors Cuming and Walsh (co-chairs), Professor Tamara Buckwold (U of Saskatchewan), John Cameron (Torys), Arthur Close (BC Law Institute), Michel Deschamps (McCarthy Tétrault), Ken Morlock (Fasken Martineau DuMoulin), Rod Wood (University of Alberta) and Professor Jacob Ziegel (U of T).

Federal Secured Transactions

Preliminary report by Howard Knopf (Shapiro Cohen)

## APPENDIX "E"

GOVERNMENT REPRESENTATIVES (in alphabetical order)  
ALBERTA

Paul Bourque, Deputy Minister of Justice and Deputy Attorney General

BRITISH COLUMBIA

Gillian Wallace, Deputy Attorney General,

Alison MacPhail, Acting Deputy Minister of Justice

Robert Lapper, Assistant Deputy Attorney General, Legal Services Branch

Leah Bailey, Acting Assistant Deputy Minister of Justice

Noreen Marshall, Acting Director - Consumer Policy and Program Development)

Anne Râtel, Acting Executive Director, Policy, Planning & Legislation

Reg Faubert, Senior Policy and Legislation Analyst

CANADA

Morris Rosenberg, Deputy Minister of Justice

Joy Kane, Assistant Deputy Minister of Justice

Roman Staranczak, Senior Analyst, Internal Trade, Consultations and Federal-Provincial Relations, Industry Canada

Group of Lawyers and Officials from Department of Justice, Industry Canada, Customs and Revenue Agency, Treasury Board Secretariat and Canadian Heritage

Joan Remsu, Senior Counsel, Electronic Commerce and Information Technology Law

Private International Law Group

NEW BRUNSWICK

Bradley Green, Q.C., Justice Minister and Attorney General

Roger Bilodeau, Q.C., Deputy Minister of Justice

Suzanne Bonnell-Burley, Assistant Deputy Minister, Justice Services

## NEWFOUNDLAND

John Cummings, Q.C., Deputy Minister of Justice and Deputy Attorney General.

Susan Churchill, Director of Commercial Registrations, Department of Government Services & Lands

Paul Nolan, Counsel, Department of Justice

## QUÉBEC

Me. Louis Borgeat, Associate Deputy Minister, Legal and Legislative Affairs

Me. Marie-Josée Longtin, Associate Director General of Legislative Affairs

Me. Pierre Audet Director of research and ministerial legislation

## SASKATCHEWAN

Chris Axworthy, Minister of Justice

John Whyte, Deputy Minister of Justice

Group of Saskatchewan Justice Lawyers and others

Madame Justice Georgina Jackson of the Saskatchewan Court of Appeal

## APPENDIX "F"

### COMMERCIAL LAW STRATEGY STEERING COMMITTEE

Susan C. Amrud, Q.C.

Director

Legislative Services

Saskatchewan Justice Susan C. Amrud, Q.C.

Prof. Vaughan Black

Faculty of Law

Dalhousie University

Arthur L. Close, Q.C.

Executive Director

British Columbia Law Institute

Bradley Crawford, Q.C.

McCarthy Tétrault

Nathalie Des Rosiers

President

Law Commission of Canada

J. Michel Deschamps

McCarthy Tétrault

John Gregory

General Counsel

Policy Branch

Business Policy & Planning

Ministry of the Attorney General of Ontario

Richard L. Lajeunesse

Senior Policy Analyst

Industry Canada, Internal Trade, Outreach and Consultations

Philippa Lawson

Counsel, Public Interest Advocacy Centre

Philippe Lortie

Avocat

Section des politiques de droit publique

Equipe de droit international privé

Ministère de la justice du Canada

Peter J.M. Lown, Q.C.

Director

Alberta Law Reform Institute

Prof. Roderick A. MacDonald

Faculty of Law

McGill University

Michael W. Milani

McDougall, Gauley

Douglas E. Moen, Q.C.

Executive Director, Public Law

Community Justice Division

Saskatchewan Justice

Kenneth C. Morlock (Chair)

Fasken Martineau DuMoulin LLP

Tim Rattenbury

Solicitor, Department of Justice

New Brunswick

Frédérique Sabourin

Ministère de la Justice, Direction des Affaires juridiques, Industrie et Commerce

Relations internationales

Affaires intergouvernementales canadiennes

Recherche, Science et Technologie



Jeff Schnoor, Q.C.

Director, Prosecutions and Criminal Justice

Policy Branch, Manitoba Department of Justice

Claudette N. Racette

Executive Director

Hélène Yaremko-Jarvis

National Coordinator

Commercial Law Strategy