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# Uniform Law Conference of Canada

## *Briefing Note -*

# Uniform International Commercial Mediation Act

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### **Subject:**

Implementation of a Uniform [International] Commercial Mediation Act.

### **Background:**

In 1999, the United Nations Commission on International Trade Law (UNCITRAL) mandated the Working Group on International Arbitration and Conciliation to draft a model law on international commercial conciliation. The Commission adopted the *Model Law on International Commercial Conciliation* in June 2002.

The Uniform [International] Commercial Mediation Act is based on the UNCITRAL Model Law.

The Uniform Law Conference of Canada decided in 2005 to adopt a Uniform [International] Commercial Mediation Act to provide uniformity in rules to international commercial mediation. Jurisdictions may also apply this uniform act to both domestic and international commercial mediations.

### **Summary of the Uniform Limitations Act:**

This Uniform Act was designed to provide uniform rules in respect of the commercial mediation process. Although the Working Group endeavoured to follow the UNCITRAL Model Law as much as possible, the language of some Model Law provisions was simplified and additions were made to suit it to a Canadian context.

Some of the changes from the UNCITRAL Model Law include:

- Conciliation: the term “conciliation” is changed to “mediation” to better suit Canadian terminology

- Scope of application: limited to “commercial” mediations; possibility of applying the Act to both domestic and international commercial mediation
- Commencement and termination of proceedings: a simple provision replaces the more detailed Model Law provisions
- Disclosure of information and admissibility of evidence in other proceedings: an additional exception to the rule of non-disclosure to allow a mediator to put forward a defence to allegations of malpractice or professional misconduct
- Limitation period: no specific rule is included as covered by the new proposed *Uniform Act on Limitations*
- Enforcement of the settlement agreement: a stronger provision was included. The chosen method was a simple one – it simply provides that the mediation agreement may be registered on application to a court with notice to all parties

## **Recommendation:**

Provincial and territorial governments are urged to enact the Uniform [International] Commercial Mediation Act as soon as possible.

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**Date: September 7, 2005**