

MEMORANDUM

Date: January 8, 2017

To: Uniform Law Commission Committee on Scope and Program

From: Kathleen Patchel, Chair, Joint Study Committee on Harmonization of the Law of Caribbean Nations, Canada and the United States Concerning Registration of Foreign Judgments

Re: Final Report of the Joint Study Committee on Harmonization of the Law of Caribbean Nations, Canada, and the United States Concerning Registration of Foreign Judgments

I. Introduction

The Joint Study Committee on Harmonization of the Law of Caribbean Nations, Canada, and the United States Concerning Registration of Foreign Judgments (“Study Committee”) was appointed by the ULC to study the feasibility of a joint drafting project to harmonize the law regarding registration of foreign country judgments among Caribbean jurisdictions, Canada, and the United States. The proposal for the Study Committee was based on a study of the issue done by a Working Group of the ULC International Legal Developments Committee. The Study Committee included representatives from the Bahamas and from the Uniform Law Conference of Canada as well as ULC Commissioners.

Events subsequent to the Study Committee beginning its deliberations made it necessary to consider the question of the feasibility of a harmonization project on registration of foreign country judgments with Caribbean jurisdictions separately from the question of the feasibility of such a project with Canadian jurisdictions. As discussed in more detail below, a determination ultimately was made to suspend consideration of a harmonization project with the Caribbean regarding registration of judgments in favor of putting available resources into another Caribbean project, the Joint Study Committee on Harmonization of the Law of Caribbean Nations and the United States Concerning Enforcement of Child Custody and Child Support Orders.

The Study Committee then considered the question of the feasibility of a harmonization project on registration of foreign country judgments between U.S. and Canadian jurisdictions. The Study Committee has determined that such a project is feasible and desirable. It therefore recommends that a joint drafting committee consisting of members of the Uniform Law Conference of Canada (ULCC) and the ULC be appointed to harmonize the law of Canadian jurisdictions and U.S. jurisdictions with regard to registration of foreign country judgments. The Study Committee further recommends that the project be limited to a registration system for foreign country money judgments of the type that are covered by both the ULCC’s uniform law

dealing with recognition of judgments, the Uniform Enforcement of Foreign Judgments Act (UEFJA), and the ULC's Uniform Foreign Country Money Judgments Recognition Act (UFCMJRA).

As discussed in more detail below, currently there is no effective registration system for money judgments between the U.S. and Canada, although money judgments are probably the most important category of foreign country judgments, at least in terms of volume and monetary value. Under current law, recognition of a foreign country money judgment from Canada requires the judgment creditor to file an action on the money judgment in a U.S. court. In many instances, a U.S. judgment creditor also must file a court action in order to collect on its money judgment in Canada. An effective registration system between the two countries would provide a more efficient and less costly means for obtaining recognition and enforcement of these judgments. It also would reduce judicial costs and work load by eliminating the need for a full scale judicial proceeding in connection with the collection of every foreign country money judgment. And it would facilitate commerce between the U.S. and Canada, one of the United States' most important trading partners.

Part II of this Memorandum briefly discusses the Caribbean portion of the Project and the rationale for its suspension. Part III discusses the Study Committee's recommendation that a joint drafting committee be appointed with regard to the Canadian portion of the Project. Part IV discusses the Study Committee's recommendation in light of the Scope and Program Criteria. Part V contains a formal statement of the Study Committee's recommendation.

II. The Caribbean Project

Fairly early in the Study Committee's deliberations, the Caribbean members of the Study Committee stated their belief that broader participation by Caribbean jurisdictions was necessary on the Study Committee. In light of those concerns, the decision was made at the leadership level to centralize the effort to obtain broader Caribbean participation and to combine it with an attempt to obtain broader Caribbean participation in a second Caribbean project, the Joint Study Committee on Harmonization of the Law of Caribbean Nations and the United States Concerning Enforcement of Child Custody and Child Support Orders. As a result, our Study Committee's deliberations were suspended pending the outcome of that effort.

Although the Caribbean members of the Study Committee, and, particularly, Peter Maynard, provided very valuable assistance in the attempt to attract broader Caribbean participation, the burden of developing broader interest and participation fell largely on the ULC. Efforts included participation in, and presentation of a paper at, a Caribbean regional conference, discussions with regional organizations, including the CFATF, and a massive mailing to attorneys general, bar associations, and other interested parties in the Caribbean (including several follow ups). Although these efforts netted indications of interest (three with regard to our project), the response was not commensurate with the effort. In addition, it became apparent during the course of this effort that harmonization projects in the Caribbean were going to require a more substantial commitment of ULC resources than had the ULC's previous projects with

Canada.

In light of this experience, the decision was made that it would be best to pool available resources by pursuing only one Caribbean project at a time. Because Caribbean participants indicated that the Child Custody and Child Support project was the one with regard to which there was a greater need, it was determined that the Child Custody and Child Support project should be the one to move forward initially. The Registration of Judgments project as it relates to the Caribbean would be placed in abeyance, with the possibility that it could be considered in the future, once the Child Custody and Child Support project is completed. Accordingly, at the January, 2016 Mid-Year Meeting, a Drafting Committee was created to Harmonize the Law of Caribbean Nations and the U.S. on Enforcement of Child Custody and Support Orders, subject to the condition that the ULC receive commitments from a sufficient number of Caribbean jurisdictions to participate in the drafting committee process.

The Study Committee agrees with the conclusions that have been reached regarding the Caribbean portion of the Registration of Judgments project. Although the Study Committee believes that a Registration of Judgments project with Caribbean jurisdictions would be a valuable project, and is one that the ULC may want to consider in the future, it agrees with the decision to pursue only one Caribbean project at a time, as well as with the choice of the Child Custody and Child Support Orders project as the initial endeavor. The Study Committee further suggests that, if a Caribbean Registration of Judgments project is pursued in the future, consideration should be given to limiting that project, at least initially, to harmonization with a few Caribbean jurisdictions that are recognized financial centers in the Caribbean.

III. The Canadian Project

The determination not to move forward at this time with a harmonization project on registration of foreign judgments with Caribbean jurisdictions left the Study Committee with the question of whether it should recommend moving forward with a drafting project to harmonize the law on registration of foreign judgments between the U.S. and Canada. At the 2016 Annual Meeting, the ULC Committee on Scope and Program requested that our Study Committee consider the remaining issue of whether a joint drafting committee should be appointed to harmonize the law of Canada and the United States with regard to the registration of foreign country judgments, and prepare a final report and recommendation for the 2017 Mid-Year Meeting.

A. The Study Committee Recommendation

As stated in Part I above, the Study Committee's recommendation is that a Joint Drafting Committee between the ULCC and the ULC should be appointed to harmonize the law of U.S. and Canadian jurisdictions with regard to registration of foreign country judgments issued by the courts of the two countries where recognition and enforcement of those judgments is sought in the other country. The Study Committee further recommends that the scope of the project be limited to a registration procedure for foreign money judgments that are included

within the scope of both the UEFJA and the UFCMJRA.

The Study Committee believes that a harmonization project with a relatively narrow, clearly defined scope is most likely to be successful. Recognition and enforcement of foreign country money judgments is probably the most important area, at least in terms of volume and monetary value, in which no effective registration system between Canada and the U.S. exists. It is also an area in which there is a sufficient core of commonality with regard to the underlying substantive law of recognition in Canada and the United States to facilitate harmonization.

Finally, the Study Committee recommends that the type of money judgments included should be limited to those that are covered by both the Uniform Law Conference of Canada's Uniform Enforcement of Foreign Judgments Act (UEFJA) and by the ULC's Uniform Foreign Country Money Judgment Recognition Act (UFCMJRA) in order to further facilitate harmonization. Thus, the scope of the project would be limited to final, conclusive, enforceable money judgments, other than judgments for taxes, judgments that constitute a fine or penalty, judgments arising out of bankruptcy, and domestic relations judgments.¹

B. Discussion

The traditional way in which a foreign judgment is recognized and enforced is by commencing a court action requesting recognition and enforcement of the foreign judgment in the jurisdiction in which recognition is sought. At common law, this action generally is referred to as an action requesting that the foreign judgment be "domesticated" – that is, turned into a judgment of the recognizing forum so that the judgment can be enforced as a judgment of the recognizing state. The focus of this action for recognition is not on the underlying merits of the dispute that led to the original judgment whose recognition is sought, but rather on the integrity of the foreign judgment itself.

Requiring a full scale court proceeding for the recognition and enforcement of a foreign judgment ensures that judicial consideration is given to the integrity of every foreign judgment before it is given effect and enforced in the recognizing jurisdiction. This requirement, however, also adds considerably to the expense and difficulty of collecting on a judgment rendered in one jurisdiction in another jurisdiction and adds to the workload of the courts.

The requirement of a full scale judicial proceeding with regard to enforcement of sister state (as opposed to foreign country) judgments has been replaced with a very simple registration procedure in almost all U.S. jurisdictions under the Revised Uniform Enforcement of Foreign Judgments Act (1964). The Revised Uniform Enforcement of Foreign Judgments Act allows an authenticated copy of the sister state judgment to be filed in the clerk's office, and provides that once filed the sister state judgment has the same effect and is subject to the same procedures,

¹See UFCMJRA §3(a)&(b). The UEFJA has a broader scope than the UFCMJRA in that it is not limited to money judgments. The UEFJA, however, excludes judgments arising out of bankruptcy, which are not excluded from the UFCMJRA.

defenses and proceedings for reopening, vacating, or staying as a judgment of the relevant court of the state. The judgment debtor is given notice by mail of the filing, and the burden is on the judgment debtor to invoke the judicial process in order to challenge the judgment. A somewhat analogous procedure for registration of federal court judgments issued in one federal district in other districts for purposes of enforcement is found in 28 U.S.C. §1963.

All U.S. jurisdictions also have a registration procedure for child custody orders (including foreign country orders) under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and for child support orders (including foreign country orders) under the Uniform Interstate Family Support Act (UIFSA).

Filing an action on the judgment, however, remains the way in which foreign country money judgments are recognized and enforced in the U.S. in almost all instances. For example, section 6 of the UFCMJRA provides that “the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.” Thus, in order to have a Canadian money judgment recognized and enforced in the United States, the judgment creditor must file an action on the judgment in the U.S. jurisdiction in which recognition and enforcement is sought.

Although most Canadian jurisdictions have a registration procedure that is applicable to foreign country money judgments, in reality that registration procedure is not going to be available in many instances when a judgment creditor with a U.S. judgment seeks recognition and enforcement in Canada. Most Canadian jurisdictions have a Reciprocal Enforcement of Judgments Act that provides for registration of foreign judgments, but only if the originating jurisdiction of the judgment has been listed as a jurisdiction with which the particular Canadian jurisdiction has reciprocity. Foreign jurisdictions are placed on the reciprocity list by a government official – in Alberta, for example, this is done by the Lieutenant Governor in Council. Although a few U.S. states have been granted reciprocity with regard to particular Canadian jurisdictions, most states have not. The Uniform Law Conference of Canada (ULCC) has promulgated a Uniform Enforcement of Foreign Judgments Act (UEFJA) to replace the Reciprocal Enforcement of Judgments Acts. The UEFJA replaces the reciprocity requirement for registration with a requirement that one of the grounds listed in the UEFJA have been the basis for personal jurisdiction on which the originating court based its authority to litigate the original dispute. The UEFJA, however, has so far been adopted only in Saskatchewan and Quebec. Thus, in many cases, a judgment creditor with a U.S. judgment will have to file an action on its judgment in Canada.

Comment 1 to section 6 of the UFCMJRA explains the rationale for the requirement of a judicial proceeding with regard to recognition and enforcement of foreign country money judgments:

A registration procedure represents a balance between the interest of the judgment creditor in obtaining quick and efficient recognition and enforcement of a judgment when the judgment debtor has already been provided with an opportunity to litigate the underlying issues, and the interest of the judgment debtor in being provided an adequate opportunity to raise and litigate issues

regarding whether the foreign country judgment should be recognized. In the context of sister-state judgments, this balance favors use of a truncated procedure such as that found in the Enforcement Act. Recognition of sister-state judgments normally is mandated by the Full Faith and Credit Clause. . . . Courts recognize only a very limited number of grounds for denying full faith and credit to a sister-state judgment The extremely limited grounds for denying full faith and credit . . . reflect the fact such judgments will have been rendered by a court that is subject to the same due process limitations and the same overlap of federal statutory and constitutional law as the forum states' courts, and, to a large extent, the same body of court precedent and socio-economic ideas as those shaping the law of the forum state. Therefore, there is a strong presumption of fairness and competence attached to a sister-state judgment that justifies use of a registration procedure.

The balance between the benefits and costs of a registration procedure is significantly different, however, in the context of recognition and enforcement of foreign-country judgments. Unlike the limited grounds for denying full faith and credit to a sister-state judgment, this Act provides a number of grounds upon which recognition of a foreign-country judgment may be denied. Determination of whether these grounds apply requires the forum court to look behind the foreign-country judgment to evaluate the law and judicial system under which the foreign-country judgment was rendered. The existence of these grounds for nonrecognition reflects the fact there is less expectation that foreign-country courts will follow procedures comports with U.S. notions of fundamental fairness and jurisdiction or that those courts will apply laws viewed as substantively tolerable by U.S. standards than there is with regard to sister-state courts. In some situations, there also may be suspicions of corruption or fraud in the foreign-country proceedings. These differences between sister-state judgments and foreign-country judgments provide a justification for requiring judicial involvement in the decision whether to recognize a foreign-country judgment in all cases in which that issue is raised. Although the threshold for establishing a foreign country judgment is not entitled to recognition under Section 4 is high, there is a sufficiently greater likelihood that significant recognition issues will be raised so as to require a judicial proceeding.

The Study Committee does not dispute the conclusion that, in the context of a general recognition statute such as the UFCMJRA, which applies to judgments coming from a wide range of judicial systems, some of which may reflect very different judicial values and legal norms from those in the U.S., requiring judicial involvement in every recognition proceeding can be justified. In the specific context of foreign judgments from Canada, however, the Study Committee believes that there is no need for judicial scrutiny in every recognition proceeding.

The similarities between the Canadian and U.S. legal systems, the shared legal and social values, and the close socio-economic ties between the U.S. and Canada mean that a sufficiently

“strong presumption of fairness and competence” attaches to a Canadian judgment to justify use of a registration procedure. Clearly, there is a very high expectation that Canadian courts “will follow procedures comporting with U.S. notions of fundamental fairness and jurisdiction” and “will apply laws viewed as substantively tolerable by U.S. standards.” Thus, the likelihood that a Canadian money judgment will implicate any of the defenses to recognition is quite low. In balancing the interest of the judgment creditor in obtaining quick and efficient recognition and enforcement of its Canadian foreign money judgment and the interest of the judgment debtor in having an adequate opportunity to raise and litigate issues as to whether the Canadian judgment should be recognized, the Study Committee believes that the balance falls in favor of placing the burden of invoking judicial scrutiny of the judgment on the judgment debtor through the use of a registration process.

Indeed, the level of comfort with regard to the Canadian legal system is illustrated by recent uniform acts such as the Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act and the Recognition of Substitute Decision-Making Documents Act. A registration procedure for Canadian money judgments, developed concurrently with harmonization of registration procedures with Canada, would be one more step in this trend towards providing clear and simplified processes for recognizing the legal actions of Canadian jurisdictions in the U.S. and U.S. jurisdictions in Canada.

Development of a registration procedure for recognition and enforcement of money judgments between Canada and the U.S. also will facilitate commerce between the two countries by providing a less expensive, more straightforward and efficient procedure for recognition and enforcement of the money judgments that inevitably are a by-product of commercial interactions. This is particularly significant in the context of Canada, which is one of the most important trade partners of the United States. The Office of the United States Trade Representative reports that in 2015 (the latest year for which data is available), Canada was the United States’ largest goods export market and its second largest supplier of goods imports. The total for goods and services trade (import and export) with Canada in 2015 was estimated at \$662.7 billion. U.S. exports and services to Canada supported an estimated 1.7 million jobs in the U.S. in 2014 (the latest year for which data is available). Further, U.S. direct foreign investment in Canada was \$386.1 billion in 2014 (the latest year for which data is available) and Canadian direct foreign investment in the U.S. was \$261.2 billion in 2014. Sales of services in Canada by majority U.S. owned affiliates totaled \$127.6 billion in 2013 (the latest year for which data is available) and sales of services in the United States by majority Canadian owned firms were \$84.4 billion.² Clearly, this level of commercial interaction would benefit from the support of a registration procedure for recognition and enforcement of money judgments.

Requiring that a court action be filed with regard to every attempt to have a foreign money judgment recognized and enforced not only increases the cost for the judgment creditor in collecting on its judgment, but it also creates costs for the judicial system in terms of allocation

²Office of the United States Trade Representative, <http://ustr.gov/countries-regions/americas/canada>.

of docket time and workload for the courts. A registration procedure, by reducing the necessity for judicial proceedings in many recognition cases, thus also will benefit the courts by reducing court dockets and judicial workload.

Finally, as discussed above, the ULCC already has developed a registration procedure, which is included in its recognition act, the UEFJA. The UEFJA will be valuable in the development of harmonized law in this area, as it provides a model for how an effective registration procedure can be developed in the foreign judgment context. Conversely, development of harmonized law in this area may be helpful to the success of the UEFJA, as a harmonization project between U.S. and Canadian jurisdictions could give further impetus to enactment of that Act in the Canadian jurisdictions.

IV. Analysis of the Study Committee Recommendation Under the Scope and Program Criteria

A. Is uniformity of law for the proposed subject matter desirable and realistic?

The Study Committee believes that harmonization of the law of the U.S. and Canada regarding registration of foreign country money judgments is both desirable and realistic. First, matters relating to recognition and enforcement of judgments traditionally have been governed by state law in the United States and by provincial law in Canada. A registration project thus clearly falls within the core jurisdiction of the ULC and the ULCC.

Second, as discussed above, the Study Committee believes there is a need for this project. Currently there is no effective registration procedure between Canada and the U.S.; in almost all instances of Canadian judgments being recognized and enforced in the U.S., and in many instances of U.S. judgments being recognized and enforced in Canada, recognition and enforcement can be obtained only by filing a court proceeding. This is true even though the similarities between the Canadian and U.S. legal systems, the shared legal and social values, and the close socio-economic ties between Canada and the U.S. make it highly unlikely that a judgment debtor will have defenses to recognition and enforcement of judgments coming from either jurisdiction that will require judicial consideration. In most cases, therefore, the requirement of a judicial proceeding with regard to every request for recognition and enforcement creates unnecessary expense for the judgment creditor and for the court systems of the respective countries. In the context of Canadian and U.S. judgments, judgment debtors will be adequately protected by the ability to initiate a court proceeding in the rare cases where there is a defense to recognition and enforcement.

In addition, harmonization of the law of registration of foreign money judgments between the U.S. and Canada will facilitate commercial transactions and support the substantial volume of trade between the U.S. and Canada³ by providing a simple, straightforward and less costly means

³As discussed in Part III B, the most recent statistics show that U.S. goods and services trade with Canada is an estimated \$662.7 billion, and Canada is the largest U.S. goods export market and second largest supplier of goods to the U.S.

for recognition and enforcement of judgments.

The Study Committee also believes that there is a substantial likelihood that a registration procedure would be widely enacted in the United States. The area of recognition of judgments is one in which the ULC has had substantial success in achieving enactments. Thirty-six U.S. jurisdictions have adopted either the UFCMJRA or the UFMJRA, with many jurisdictions having adopted both versions of the Act, and the UFCMJRA continues to be introduced for adoption in the states. The UEFJA (dealing with registration of sister state judgments) has been adopted in all but four states. All U.S. jurisdictions have adopted UIFSA (providing, *inter alia*, a registration procedure for foreign child support orders) and the UCCJEA (providing, *inter alia*, a registration procedure for child custody orders).

Border states with Canada and those states, such as Arizona, Florida, and Hawaii, in which there is a considerable Canadian presence, are obvious states for adoption of a harmonized registration procedure. However, given the volume and importance of Canadian-U.S. trade, an expedited procedure for dealing with recognition and enforcement of Canadian judgments is likely to have national appeal, similar to that of the UFCMJRA and the UFMJRA.

Finally, the Study Committee believes that a registration procedure will receive the support of the practicing bar as well as the judiciary, which should greatly facilitate its enactment.

B. What is the existing law regarding registration of foreign country judgments in Canada and the U.S.?

(1) Canada

Canada provides for registration of foreign country money judgments as part of its statutes dealing with recognition of foreign judgments. Most Canadian jurisdictions have a Reciprocal Enforcement of Judgments Act, which provides for registration of foreign country judgments from reciprocating jurisdictions. The Reciprocal Enforcement of Judgments Act of the Province of Alberta is illustrative of these Acts. It applies to “a judgment or order of a court in a civil proceeding whereby a sum of money is payable,” with the exception of judgments for alimony and maintenance, including child support. Subject to certain defenses,⁴ the Act provides for registration of a judgment within its scope if it was issued by a court of a jurisdiction that has been listed as a reciprocal jurisdiction. Once registered, the foreign country judgment is given the same force and effect as a judgment of a domestic court. The determination that a jurisdiction is a reciprocal jurisdiction is made by a political official, the Lieutenant Governor in Council.

⁴Defenses to registration include lack of jurisdiction; the defendant did not voluntarily appear or otherwise voluntarily submit to the proceedings; lack of notice; fraud; and appeal is pending or will be taken; and violation of public policy.

In 2003, the ULCC promulgated the UEFJA, which modernizes the law on recognition and enforcement of foreign country judgments in Canada, while retaining a registration system for those judgments. The UEFJA replaces the reciprocity requirement of the Reciprocal Enforcement of Judgments acts with the requirement that the court rendering the original judgment have had personal jurisdiction over the defendant on one of the grounds specified in the UEFJA.⁵ It contains a core of defenses to recognition and enforcement similar to those in the Reciprocal Enforcement of Judgments acts and gives a registered judgment the same effect as do those acts. A version of UEFJA had been adopted in Saskatchewan and Quebec, and it is under active consideration for adoption in British Columbia, Alberta, and Ontario.

Foreign country money judgments that do not fall under either a Reciprocal Enforcement of Judgments Act or UEFJA, as applicable, are not subject to registration, and instead must be recognized through a court action in which common law principles of comity will be applied to determine if recognition and enforcement should be allowed.

2. United States

Registration procedures in general are available in the United States for foreign country judgments only in the areas of foreign country child custody and child support orders -- both UIFSA (child support orders) and the UCCJEA (custody orders) make a registration procedure central to their provisions regarding recognition and enforcement of foreign orders.⁶ In addition, a few states have agreements with particular Canadian provinces for reciprocal registration in accordance with a particular province's Reciprocal Enforcement of Judgments Act.⁷ With these exceptions, however, a registration procedure for recognition of foreign country judgments generally is not available in the U.S., including with regard to the important category of foreign country money judgments.

Recognition of foreign country money judgments is governed in 36 U.S. jurisdictions by either the Uniform Foreign Country Money Judgments Recognition Act (2005) (UFCMJRA)⁸ or

⁵Section 8 of UEFJA sets out the acceptable grounds for personal jurisdiction: (1) express agreement to jurisdiction; (2) voluntary appearance; (3) commencement of a counterclaim; (4) ordinarily resident in the jurisdiction issuing the judgment; (5) incorporated in, exercising central management in, or having the principal place of business in the jurisdiction issuing the judgment; and (6) a real and substantial connection between the jurisdiction issuing the judgment and the facts on which the proceeding was based.

⁶Both of these Acts have been adopted in all U.S. jurisdictions.

⁷For example, Alberta has reciprocal arrangements under its Reciprocal Enforcement of Judgments Act with the states of Washington, Idaho and Montana.

⁸The UFCMJRA has been adopted in 21 jurisdictions.

its predecessor, the Uniform Foreign Money Judgment Recognition Act (1962) (UFMJRA).⁹ In states that have not adopted one of these acts, recognition of money judgments is governed by common law principles of comity.¹⁰ Despite the different sources of recognition law, the principles that govern recognition in the states are very similar, in large part because the two Recognition Acts codified the common law principles of comity. U.S. recognition law also is similar to Canadian recognition law with regard to certain principles, including the core defenses to recognition and the effect given a recognized judgment.

As discussed in Part III B, the UFCMJRA specifically provides that a court action should be brought for the recognition of a foreign country judgment within its scope.¹¹ That provision, however, was merely a codification of the correct procedure for obtaining recognition of a judgment as it existed under the UFMJRA. Filing a court action to have the foreign country money judgment “domesticated” is also the procedure for recognition under principles of common law comity.

The result of the current law is that in most situations a law suit must be filed in order to obtain recognition of a U.S. money judgment in Canada or to obtain recognition of a Canadian money judgment in the U.S. Although most Canadian jurisdictions have Reciprocal Enforcement Acts providing for registration, the fact that governmental action is required in order to become a reciprocal jurisdiction allowed to use the registration procedure has led to a piecemeal approach as to which jurisdictions are granted reciprocity within a given Canadian jurisdiction, as well as a lack of uniformity on that question across the various Canadian jurisdictions. Further, although the UEFJA remedies the problem of piecemeal application by eliminating the reciprocity requirement, it has not as yet been widely enacted. In the U.S., as already discussed, there is no registration procedure in the area of foreign money judgments.

C. Does the proposed project require changes in federal laws or regulations?

This project does not require changes in federal law or regulations. Matters relating to recognition and enforcement of foreign country money judgments are governed almost exclusively by state law.

D. What organizations or interest groups are likely to have an interest in the subject matter of the

⁹The UFMJRA is in effect in 15 states.

¹⁰Common law principles of comity also govern recognition of money judgments that are excluded from the recognition acts, such as judgments in connection with divorce.

¹¹UFCMJRA §6. As discussed in Part III B, the ULC has a uniform act providing for registration of *sister state* judgments, the Revised Uniform Enforcement of Foreign Judgments Act (1964). That Act, however, is not applicable to foreign country judgments. One of the reasons for section 6 was to reject cases that had misapplied that Act to foreign country judgments in an effort to obtain a registration procedure for those foreign country judgments.

proposed project and are they likely to support or oppose a uniform act?

This project will be of interest to state and federal courts and to practitioners whose practice includes obtaining recognition of foreign country judgments. Courts are likely to view the project favorably because a registration procedure will allow them to reduce and streamline their dockets. Practitioners are likely to support the project because it will provide a more straightforward, efficient and less costly method to obtain recognition of Canadian judgments on behalf of their clients in the U.S. and of U.S. judgments in Canada.

E. Are there resources available to support the development of the proposed project?

The Uniform Law Conference of Canada has indicated its support for this project and its willingness to participate. Preliminary discussions with Peter Lown, the ULCC representative on the Joint Study Committee, suggest that the ULCC will be able to provide several members for the Joint Drafting Committee, including the person who served as Reporter for the UEFJA, the ULCC's uniform registration act. Steve Richman, the ABA International Law Section representative on the Joint Study Committee, has indicated that the project also will have that Section's support and has offered their assistance in moving the project forward.

The Study Committee did not explore the issue of outside funding.

F. Is an act on the proposed topic likely to have any substantial fiscal impact on an enacting state – positive or negative?

This project is likely to have a positive fiscal impact in enacting states. As discussed above, current U.S. law generally requires that a court action be filed in order to obtain recognition and enforcement of a foreign country money judgment. An expedited procedure providing for registration of Canadian judgments in lieu of filing a court action should reduce costs for the state judicial systems by reducing the number of instances in which judicial involvement is required.

V. Conclusion

For the reasons stated in this Memorandum, the Study Committee makes the following recommendation:

That a Joint Drafting Committee consisting of members of the ULCC and the ULC be appointed to harmonize the law between Canadian and U.S. jurisdictions with regard to registration of certain foreign country money judgments originating in either country where recognition is sought in a jurisdiction in the other country, with the scope of the drafting project limited to foreign country money judgments that are final, conclusive, and enforceable in the jurisdiction of origin and are not excluded from the coverage of either the Uniform Foreign Country Money Judgment Recognition Act (2005) or the Uniform Enforcement of Foreign Judgments Act (2003).

There currently is no effective registration system for money judgments between the U.S. and Canada, although money judgments are probably the most important category of foreign country judgments, at least in terms of volume and monetary value. Under current law, recognition of a foreign country money judgment from Canada requires the judgment creditor to file an action on the money judgment in a U.S. court. In many instances, a U.S. judgment creditor also must file a court action in order to collect on its money judgment in Canada. An effective registration system between the two countries would provide a more efficient and less costly means for obtaining recognition and enforcement of these judgments. It also would reduce judicial costs and work load by eliminating the need for a full scale judicial proceeding in connection with the collection of every foreign country money judgment, and would facilitate commerce between the U.S. and Canada, one of the United States' most important trading partners. This also is a project that has the potential to receive wide support and enactment.