

Commercial Law Strategy Activities Report 2002



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

Presented by:

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I. INTRODUCTION

As I write this report in June to permit its timely translation, I have mixed feelings about the past year. We have had continuing successes in terms of nurturing already established relationships with stakeholders, garnering the support of new endorsers and making progress on existing and new projects. However there is a tremendous sense of frustration at the manner in which the Strategy has been hampered by the lack of a solid financial base and administrative support. For those of you not involved in the funding process, members of the executive of the ULCC and the Steering Committee of the Commercial Law Strategy began working on the renewal of the Strategy's funding for the period beginning April 1, 2002 in September 2001. There had been some indications since May 2001 that a substantial increase in the Strategy's funding was a definite possibility. The increase under consideration would have permitted the ULCC to move the Commercial Law Strategy to a different plane by being able to rent premises, hire staff (economists, lawyers and support staff), carry out broad consultations across Canada and the like. Unfortunately September 11 intervened and in its aftermath it eventually became evident that due to more pressing priorities, a significant increase in funding was no longer possible.

In terms of total funding, there has nevertheless been a substantial improvement if one compares the amounts contributed to the Conference for the Strategy to the historical funding levels of the Conference and its activities. Indeed, many jurisdictions agreed to double their contributions to the Strategy (see Appendix "G" for the amounts committed by the various governments.)

The main problem has been what, for lack of a better term, I shall describe as a "bureaucratic conundrum". Thus although the Strategy's funding ran out on March 31, 2002 and commitments for continued funding at past or higher levels were made, none of the money for the new funding period (April 1, 2002 to March 31, 2005) could be spent until the formal funding agreements were signed. As I write this report, this formal signing procedure has yet to be completed. As a consequence, trips and meetings already arranged (including those relating to meetings with three deputy ministers of the government of Manitoba, my traditional participation in NCCUSL's annual meeting, attendance at an Ottawa meeting of the Canadian Corporate Counsel Association, planned face-to-face meetings of two working groups and of the Strategy's Steering Committee) and conference calls of the Commercial Law Strategy's Steering Committee and of the working groups had to be cancelled. Because of the dire financial situation in which the Strategy finds itself, all expenses which could be delayed or eliminated since April 1, have been delayed or eliminated.

Why do I relate this? For two reasons - (i) to underline the importance for the successful operation of the Strategy of establishing its funding on a more secure basis; and (ii) to explain why certain types of activities had to be curtailed from March 2002 to the present. Hopefully, once the Funding Agreement is signed, our path will be somewhat more secure for the next 2 ½ years. I say 2 ½ rather than 3 years as it has been our experience that the months leading up to renewal of the Strategy's funding are dominated by the application procedure rather than by substantive work.

And now for my report on the accomplishments of the Commercial Law Strategy and my activities as National Coordinator during the past year.

Notwithstanding the funding issues, I continue to be a firm believer in the merit of pursuing the goals of the Commercial Law Strategy. Canada and Canadians can only benefit from a modernized and harmonized commercial law infrastructure. There is strong support for these goals in all key sectors of the economy. Indeed, I have yet to find any organization or individual who does not support the goals of the Strategy. That there is such a clear consensus on the need for reform of commercial law in Canada is a testament to the vision of the Conference members who developed the blueprint for reform and eventually convinced the member governments of its merits.

The creation of the comprehensive framework of harmonized modern Canadian commercial law envisaged in the Strategy continues to be an ambitious goal. Despite broad support for the philosophy behind the Strategy, there is a certain amount of inertia to be overcome across the country. If we truly accept that the implementation of the Strategy will be for the greater good of all Canadians, Canada's disparate parts must come together in a cooperative and flexible spirit. In the process of harmonization, individual jurisdictions may on occasion find themselves having to consider changing legislation which they adopted fairly recently. This is all part of the process which will lead to successful harmonization and ultimately to Canada's increased vitality as a competitive trading nation with growth of business and employment in Canada.

I continue to believe that the Conference is particularly well-positioned to carry out the process of reform of commercial law upon which it has embarked. It is the only organization of Canadian governments whose specific mandate is to bring the laws of the various jurisdictions into harmony where desirable and practicable. The Conference has succeeded over the years to bridge the gap between civil law and common law, between large and small provinces and between those with many resources and those with few resources. All participants in the process of developing uniform legislation benefit from the work, expertise and good will of members of delegations and volunteers of other jurisdictions. Furthermore, (and this is a credit to Canadians and to their spirit of community) the Conference continues to attract the dedicated service of volunteers from the ranks of the academic, law reform and legal communities and, more recently, the business and consumer advocacy communities.

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 (i) moving forward current projects and initiating new ones; (ii) continuing efforts to raise the profile of the Strategy among stakeholders and nurture those relationships which have already been established; and (iii) encouraging the enactment of the five uniform acts targeted for speedy enactment.

In the first part of my report today, I will focus on the first priority and provide a brief review of our on-going and new projects. A number of presenters who will follow me will provide more detailed reports on the activities of our working groups. This will be followed by an overview of efforts made to raise the profile of the Strategy among stakeholders and to nurture already established relationships with some of these. Finally, I will review progress made with respect to the enactment of the uniform acts targeted for speedy enactment.

II. REVIEW OF ON-GOING AND NEW PROJECTS

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

The projects currently underway within the Strategy relate to subjects chosen by the Conference and the Steering Committee of the Commercial Law Strategy for their significance to commercial relations and to the Canadian legal infrastructure. Efforts have been made to include broad representation on the relevant working groups (e.g., civil/common law expertise, geographic diversity, private practitioners and academics, etc.). Furthermore, attention has been directed to soliciting input at a relatively early stage from those groups which have been identified as having a particular interest in a specific subject. As the number of volunteers at times has exceeded our needs for the constitution of working groups, we will ensure that individuals who have expressed an interest in participating in the projects or in providing informal feedback on early drafts are given the opportunity to submit their comments at various stages. By following these guidelines, we hope to develop uniform acts which represent a consensus arrived at following due consideration of a broad spectrum of concerns and, more importantly for implementation purposes, which benefit from extensive stakeholder support.

Further to the decision of the Steering Committee, I continue to be a nominal member of the working groups. This enables project leaders to keep me regularly informed of relevant progress.

ON-GOING PROJECTS

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

Canadian law dealing with secured transactions in personal (movable) property lacks harmony and has not kept up with developments in business practices and case law. For this reason, the PPSA working group was established by the Conference to develop recommendations for harmonizing and modernizing the relevant laws in the provinces and territories.

The working group, co-chaired by Professors Ron Cuming, Q.C. and Catherine Walsh, has had several productive meetings during the past year. The discussions have focussed on developing recommendations which relate to six specific areas:

- ▶ the interrelationship of security interests under provincial personal property legislation and the *Bank Act*;
- ▶ harmonization of conflicts rules;
- ▶ purchase money security interests;
- ▶ security interests in licences;
- ▶ anti-assignment clauses affecting accounts and chattel paper; and
- ▶ consequential modifications to provincial secured financing law required by the draft *Uniform Securities Transfer Act* being recommended by a different working group.

In keeping with our desire to ensure broad consultation in the development of recommendations made by this and other committees of the Commercial Law Strategy, a number of consultation papers have been prepared. These will be circulated for comment to the Strategy's endorser, to those parties identified as having a particular interest in the work of this committee and to the members of the Strategy's mailing list which now includes more than 1200 names. In some cases, specific questions will be asked of the readers of the papers. To this end, we are looking at the possibility of collecting the feedback through some form of survey on the internet. A number of software packages are being evaluated for this purpose.

In addition to these more abbreviated consultation papers, background papers setting out the current legal environment and discussing the reasons underlying various recommendations being made by the working group will eventually be posted on the Conference's web site for the benefit of those interested in more information on the various subjects. These will describe the various options, including their respective advantages and disadvantages, which were considered by the working group in arriving at their recommendations.

Rod Wood will be reporting on the work of this group in greater detail on Monday.

The members of the working group, in addition to Professors Cuming and Walsh, are Professor Tamara Buckwold (U of Saskatchewan), John Cameron (Torys - Toronto), Arthur Close, Q.C. (BC Law Institute), Michel Deschamps (McCarthy Tétrault - Montreal), Ken Morlock (Fasken Martineau DuMoulin LLP - Toronto), Professor Rod Wood (University of Alberta), Professor Jacob Ziegel (University of Toronto) and Hélène Yaremko-Jarvis (ULCC Commercial Law Strategy).

(B) Enforcement of Civil Judgments

In a number of Canadian jurisdictions, civil enforcement procedures are antiquated and are dispersed throughout a number of statutes and in the common law. In addition, significant differences in civil enforcement procedures exist from province to province. These differences touch upon a variety of issues such as pre-judgment measures to "secure" property pending trial, post-judgment enforcement measures (including exemptions) and method of registration of judgments. The greater mobility of Canadians and their assets has made the need for harmonization in this area of the law more pressing.

At their August 2000 annual meeting, the members of the Conference decided that this subject should be reviewed as part of the Commercial Law Strategy. The working group has since met regularly to develop recommendations for a uniform act for the enforcement of monetary civil judgments.

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

The objectives of the project and the work undertaken by the working group during the past year will be described in detail in the report being made to the Conference by Professor Robinson on Tuesday morning.

The members of the working group, in addition to Professor Robinson, are: Mounia Allouch (Justice Canada), Professor Tamara Buckwold (University of Saskatchewan), Caroline Carter (British Columbia Law Institute as Reporter), Arthur L. Close, Q.C. (British Columbia Law Institute), Professor Ron Cuming, Q.C. (University of Saskatchewan), Chris Curran (Government of Newfoundland), Hélène Fortin (Government of Québec), Geoff Ho, Q.C. (Government of Alberta), Marie José Longtin (Government of Québec), Darcy McGovern (Government of Saskatchewan), Keith Pritchard (Government of), Tim Rattenbury (Government of New Brunswick), John Twohig (Government of Ontario) and Professor John Williamson (University of New Brunswick)..

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

Pleas for uniformity/harmonization of Canadian securities law have received considerable coverage in the Canadian media during the past year. The Uniform Law Conference of Canada has long understood the importance of harmonization in this area. Indeed, in 1993 the Conference undertook a project to develop uniform provincial legislation governing transfers and secured transactions involving investment securities to be harmonized with the then-pending revisions to Article 8 of the *Uniform Commercial Code* [ultimately completed in 1994].

The need to also modernize securities legislation was rendered particularly urgent in light of the development of business practices (e.g. indirectly held securities or tiered holdings) not contemplated in relevant Canadian legislation and the greatly enhanced speed of transfer of securities using modern technology. Also, as both the United States and the European Union had addressed these issues by adopting new laws, Canada was becoming uncompetitive internationally.

The goal of the project is to create a final product which is implementable in each province without amendment. This assumes uniformity in the common law provinces, and as close to uniformity as possible in Québec having regard to the requirements of the *Civil Code of Québec*.

A group consisting of representatives of the Canadian Securities Administrators and legislative counsel from British Columbia, Alberta, Ontario and Québec has been working on a draft *Uniform Securities Transfer Act* and commentaries for a number of years. A number of delays have been encountered in achieving consensus on an appropriate approach to resolution of the issues encountered, including those pertaining to differences in drafting protocols among the various jurisdictions. In addition, there was a need to draft consequential amendments to PPSA legislation. I understand from having spoken to Eric Spink that these consequential amendments are now ready and will soon be made available to the PPSA working group for comment.

A more detailed review of progress on this subject will be presented by Eric Spink tomorrow. In light of the challenges faced by this working group over many years, their members are to be applauded for having persisted to the end.

(D) Federal Secured Transactions

This project, which is being carried out jointly with the Law Commission of Canada ("LCC"), seeks to address inconsistencies, uncertainty and other difficulties relating to security interests under the different federal statutes that regulate particular industries or types of property. Of particular concern are problems relating to leveraging "knowledge assets" in secured transactions.

Last August, I reported that the LCC had retained Howard Knopf (Shapiro Cohen) to prepare an issues paper which would form the basis of discussions at a roundtable of experts from industry, the Bar, government and academia to be held in London, Ontario on November 16-17, 2001.

The London meetings took place as planned with the participation of experts knowledgeable with respect to relevant laws and experience in Canada, the United Kingdom, the United States, Australia and the EU.

The first day of the meeting began with a cross Canada video-conference with interested parties participating electronically in Vancouver, Calgary, Toronto, London, Montreal and Halifax. This was followed by a number of presentations by the experts which led to discussions aimed at identifying practical solutions to the problems identified during the video-conference.

In addition to the London meeting, an on-line survey was developed by the LCC and the Richard Ivey School of Business which sought to obtain data on the experience in Canada of those who have sought to leverage knowledge assets. The survey inquired specifically into attempts to leverage these assets using licensing, angel investors, venture capital, government funding, non-equity based funding and other types of funding vehicles.

Following the meetings, the LCC retained Professors Catherine Walsh (McGill University) and Norm Siebrasse (University of New Brunswick), both of whom had participated in the London meetings, to conduct further research to determine (i) whether it is possible to facilitate access to investment for enterprises that hold mostly intellectual property assets, (ii) whether this problem stems from the uncertainty in the law relating to registration of federal security interests on these assets or/and from the culture of traditional lenders and valuation problems and (iii) whether there are some practical improvements that could be made to facilitate access to investment for information-based enterprises. Their report will summarize the research already completed for the LCC and the Conference and explore the different solutions put forth by participants in the London Conference and in the survey responses. A more detailed report on this project will be presented by Professor Siebrasse tomorrow morning.

(E) Jurisdiction and Consumer Protection in Electronic Commerce

As a result of the exponential increase in cross-border electronic transactions involving consumers, both the Consumer Measures Committee (whose mandate includes improving the marketplace for Canadian consumers, through harmonization of laws, regulations and practices) and the Conference felt there was a need to develop jurisdictional rules for Internet transactions. The development of such rules would instill consumers with confidence in shopping on the Internet and allow the Internet to develop to its full potential. It was also believed that these rules should be consistent such that results would be predictable regardless of the jurisdiction of residence of a buyer or seller.

In my report last year I referred to papers prepared for the Conference and the Consumer Measures Committee ("CMC") by Professor Michael Geist and Roger Tassé (Gowling Lafleur Henderson LLP) on this subject. While Professor's Geist's paper examined the determination of jurisdiction as it applies to contractual and private law rights in business to consumer online transactions, Mr. Tassé's paper examined regulatory or public law considerations.

After our meeting last August, the CMC and the Conference established a joint working group to consider policy options and to develop a draft proposal for jurisdictional rules for cross-border business-to-consumer transactions on the Internet. The joint working group has developed a consultation paper in this regard which should be distributed to business, legal and consumer stakeholders by the CMC in mid-July. Comments on the draft proposal are invited by September 6, 2002.

The members of the joint working group are (in alphabetical order): André Allard (Government of Québec), Larry Bryenton (Industry Canada), David Clarke (Industry Canada), Philip Halliday (Industry Canada), Rob Harper (Government of Ontario), Gerald Hashey (Government of Nova Scotia), M. Kolbe (Government of Manitoba), Peter Lown (Alberta Law Reform Institute), Doug Moen (Government of Saskatchewan), Karen Pflanzler (co-chair, Government of Saskatchewan) Rob Phillips (Government of Alberta), Tim Rattenbury (Government of New Brunswick), Lynn Romeo (co-chair - Government of Manitoba), Kathryn Sabo (Justice Canada), Frédérique Sabourin (Government of Québec), Johannes Wolff (Government of Ontario) and Hélène Yaremko-Jarvis (ULCC Commercial Law Strategy).

Karen Pflanzler will present a detailed report on the work of this working group tomorrow morning.

NEW PROJECTS

Since the 2001 annual meeting, three new projects were initiated under the Commercial Law Strategy. These relate to franchise legislation, section 347 of the *Criminal Code* and *Bank Act* security.

(A) Franchise Legislation

One of the principles which has informed the decisions of the Strategy's Steering Committee as it reviews its priorities is that new projects should only be undertaken where there is a demonstrable need and stakeholder support. It is in keeping with this approach that the Steering Committee recommended to the Conference that it initiate a project to develop a uniform franchise act for Canada.

Legislation specifically regulating franchises is currently in force in two provinces - Alberta and Ontario. However other provinces have indicated an interest in introducing legislation on this subject, partly at the behest of franchisees within their respective jurisdictions. The Conference believes that a uniform regulatory regime across all of Canada, bridging the interests of franchisors, franchisees and others involved in franchising, is a goal supported by all stakeholders.

Franchising has experienced phenomenal growth throughout the world and in Canada in recent years, and is of substantial significance to the Canadian economy. It is estimated that franchise businesses account for close to \$100 billion dollars in sales across Canada, representing 40¢ out of every retail dollar spent. There are estimated to be over 1,000 franchise systems in Canada, with investments for franchises ranging from several thousand dollars for simple home service franchises to millions of dollars for franchises like fully equipped hotels.

The franchise law working group recently established by the Steering Committee is co-chaired by two leading Canadian franchise lawyers. John Sotos, of Sotos Associates, specializes in franchising, licensing and distribution law and served on the Ontario Government's Franchise Sector Working Team considering franchise legislation for that province. Frank Zaid, a senior partner at Osler, Hoskin & Harcourt LLP, has served as counsel to many of Canada's and the world's leading franchisors, and is Past General Counsel to the Canadian Franchise Association and Past Chair of the Council of Franchise Suppliers of the International Franchise Association.

The Committee intends to engage in a wide consultative process in order to receive input and suggestions from all interested parties. A press release announcing the new franchise project was distributed to the members of the Strategy's mailing list and to a separate list of franchise stakeholders. We have also been setting up, with the assistance of the Conference's web master, a dedicated list serve for regular communications with stakeholders. In this fashion the working group hopes to ensure broad participation in the development of the uniform act which will be the end product of this exercise.

The members of the working group, in addition to the two co-chairs, are the following: Richard Cunningham (President, Canadian Franchise Association), Jean H. Gagnon (Pouliot Mercure - Montreal), Professor James E. Lockyer (Université de Moncton), Bruce Macallum (Government of British Columbia), Leonard Polsky (Gowling Lafleur Henderson, LLP - Vancouver), Danny Zalmanowitz (Witten LLP - Edmonton) and Hélène Yaremko-Jarvis (National Coordinator, Commercial Law Strategy).

(B) Section 347 of the *Criminal Code*

The Steering Committee of the Commercial Law Strategy has initiated a new project to consider section 347 of the *Criminal Code*. Section 347 was added to the Code in the early 1980's to deal with undesirable practices of loan sharks. However many of the decided cases considering this section have been civil actions involving borrowers asserting the common law doctrine of illegality in an attempt to avoid interest payments or to render an otherwise legitimate agreement void.

The provision has therefore attracted significant criticism from commercial lawyers, judges and academics - many of whom have called for its repeal.

It was noted by the Steering Committee that section 347 has been the subject of studies by the Consumer Measures Committee ("CMC") in the consumer context for the past two years. After discussions with representatives of the CMC, it was agreed that before recommendations for amendments could be made to the federal Department of Justice, it would ultimately be necessary to also review the section from the business perspective. The new project was therefore launched by the Steering Committee to complement the work being done by the CMC. The two groups agreed to keep each other informed of progress on their respective studies to permit an eventual coordination of their recommendations.

Professor Mary Anne Waldron (University of Victoria), a recognized expert on interest rate issues, was retained to prepare a preliminary report for the Strategy. As part of Professor Waldron's study, I circulated a survey which she had prepared to the chairs of the Canadian Bar Association provincial business law sections and to the Strategy's endorers requesting preliminary feedback on the subject. This generated over 60 responses which overwhelmingly supported the need to circumscribe the scope of application of section 347 in the business context.

Professor Waldron will present her report on this subject to the Conference on Tuesday afternoon.

(C) Section 427 of the Bank Act

This project was briefly alluded to above under the heading "Personal Property Security Legislation ("PPSA")" as it relates to problems arising when the holder of a provincial security interest or hypothec comes into competition with a federal Bank Act security in the same collateral. Neither the Bank Act nor the provincial legislation provides a complete set of rules that can be used to determine which of the competing parties should have the highest ranking claim. This has produced great uncertainty in the law, in an area where certainty and predictability are highly valued.

A project has been initiated on this subject by the Steering Committee of the Commercial Law Strategy in conjunction with the Law Commission of Canada. A consultation paper prepared on this subject by Professor Rod Wood of the University of Alberta will be distributed to stakeholders for comment. Professor Wood's paper reviews the current state of the law in Canada and sets out the advantages and disadvantages of a number of options to resolve the uncertainties in the law.

Professor Wood will review his consultation paper for the Conference during tomorrow's meetings.

(D) Sale of Goods

Last year I reported that the Steering Committee wished to pursue two projects relating to sale of goods. The first would involve a major review of current legislation which, in many jurisdictions, is essentially the English statute of 1893. The second was to be a fast-track project which would focus on sale of goods laws as they apply to electronic transactions. The goal of this latter project would be to determine the inadequacies, if any, of current sales laws in the context of electronic transactions, including the extent to which current legislation provides (or does not provide) a minimum level of protection for electronic transactions. It was believed that this discrete topic could be addressed fairly quickly and was in need of urgent work due to the fact that sale of goods legislation does not contemplate these types of sales.

Initially Professor Ziegel had indicated his interest in taking on leadership of the fast-track project. However, he later informed the chair of the Steering Committee that time constraints would not permit him to take on this work. Professor Claude Samson of Laval University and Professor Karl Dore of the University of New Brunswick who had both expressed an interest in being involved in the project as experts in the law on the sale of goods were then approached. Ultimately Professor Samson advised that he would not be able to devote the time required to the project and Professor Dore indicated that he believed the initial work should involve a review of practical problems being experienced by private practitioners to be followed by a report with recommendations for change to be prepared by a group consisting of both private practitioners and academics.

As we were unable to identify private practitioners interested in taking on this project and there appeared to be little interest among stakeholders in supporting it, the Steering Committee decided that it should be deferred until a later date. Notwithstanding this decision, the Steering Committee believes that developing modern sales legislation which reflects current business practices should continue to be a goal of the Strategy.

II. PROFILE RAISING

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 support. For this reason, raising the profile of the Strategy and of the Conference among various stakeholders was initially determined as the top priority.

As significant success was achieved in raising the profile of the Strategy among stakeholder groups during the Strategy's first year of activities, during its planning meeting for the past year the Steering Committee determined that the projects themselves should be the new top priority. Profile raising activities, although still critical to the success of the Strategy, were identified as the second priority for the Strategy.

Profile-raising activities have continued to involve meetings and various forms of communications with stakeholders (i) to inform them of the projects being undertaken by the Strategy, (ii) to garner and retain their support, (iii) to solicit their suggestions on current and possible future projects, (iv) to obtain the names of experts and possible volunteers and (v) to encourage them to promote the Strategy with government representatives in the different jurisdictions.

Development and Nurturing of Relationships with Stakeholders

As noted above, the identification of stakeholders with an interest in the Strategy in general has continued to be a key activity. However as new projects have been initiated, we have had to direct a more focussed attention to the accurate and complete identification of stakeholders with a particular interest in specific new projects. This identification is essential to permit us to ensure that our consultations will involve all interested parties.

The "generic" stakeholder groups we have identified with an interest in the modernization and harmonization of commercial laws in Canada continue to be business leaders and organizations, lawyers (both in private practice and in corporations), academics (in legal and business faculties), consumer advocates and government policy advisors. Efforts to identify appropriate representatives of these groups and to nurture the relationships established continue on an on-going basis. After a little over two years we appear to have achieved a high level of credibility among stakeholders. The relationships established are friendly and cooperative and involve regular exchanges of information on subjects of mutual interest - both formally and informally.

Support for the goals of the Commercial Law Strategy among the identified stakeholders continues to be overwhelmingly favourable. There is a broad consensus in the business, legal and other communities regarding the undesirable consequences flowing from perceived deficiencies in Canada's economic and legal infrastructure. These undesirable consequences include incremental costs flowing from lack of harmonization of laws and regulations and barriers to the growth of companies, investment and employment in Canada.

a) Lawyers

Lawyers continue to play an important role in the Strategy. We are fortunate to have a number of distinguished and well-respected lawyers in private practice actively participating on the Steering Committee of the Strategy and in a number of our working groups. (See Appendix "F" for those on the Steering Committee and Appendix "D" for those on working groups.)

During the past year I have also reached out to the broader legal community through formal (see Appendix "C") and informal presentations. Lawyers continue to express an interest in becoming involved in our projects, either formally as members of committees or, more frequently, informally by providing input on proposals and drafts. I have developed a list of these lawyers across the country by area of specialty and am making efforts to keep them informed of developments in those areas of commercial law of particular interest to them. As they work in the commercial law "trenches" on a daily basis, they have much knowledge and wisdom to impart to us and I want to ensure that we capitalize on this. The distribution of our newsletter and the use of other mass mailings (e.g. regarding our press release on the new franchise project, Justice

Canada's consultation paper on the UNIDROIT franchise legislation and Industry Canada's consultation paper on charge-backs) have allowed us to disseminate information regularly and to solicit relevant input. With respect to the franchise project, there was such an overwhelming interest in being involved in the project that we have established a dedicated listserv which will permit the working group to obtain regular feedback from franchise lawyers and members of the industry.

(b) Business Organizations

During the past year, I have met and had discussions with many business organizations and associations. Appendix A provides a list of those contacted to date. These organizations and associations continue to be very supportive of the goals of the Strategy and generally view harmonization and modernization of commercial laws as of vital importance to the health of the Canadian economy. One need only glance at the daily press in recent months to note this interest. A recent example relates to the ever-increasing calls for harmonization of Canada's securities laws (see June 26 issue of the *Globe & Mail*).

As I identify the issues of importance to individual organizations, I add them to the list of those to be consulted on specific issues. This will help ensure that we consult with the appropriate groups as we carry out our research and make recommendations for uniform acts. I cannot emphasize enough the extent to which the credibility of the Strategy and the continued support of key stakeholders depend on our conduct of meaningful consultations. We must provide our stakeholders with ample opportunity and time to provide their input and we must be responsive to this input. Only then will we be able to rely on their support when we ultimately make recommendations for the implementation of new uniform acts to governments.

My meetings with these organizations continue to confirm my belief that they would reap significant benefits by greater cooperation among themselves. Very frequently their issues are similar yet, to a great extent, they toil in isolation from one another. The Commercial Law Strategy 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.

(c) Academics

Among the groups we have identified as stakeholders are academics in the legal and business faculties. During the past year, I have met with a number of them and can attest to their continued interest and support.

This support is evidenced by the willingness of academics to serve on the Steering Committee of the Strategy (Professors Vaughan Black, Rod MacDonald and Rod Wood) and on our various working groups noted throughout this report. (See Appendix D for members of working groups). When I was putting together the working group for the Strategy's new franchise project, I wrote to the deans of all law faculties seeking volunteers from their staff and very quickly obtained the services of Professor James Lockyer of the Université de Moncton. In addition to enriching the working group with his experience as an academic, Jim brings to us the very practical skills and insights into the political process which he acquired as a member of Premier McKenna's cabinet in New Brunswick for over 10 years. I should add that we also appear to have attracted the interest of academics from other jurisdictions with respect to this particular project (i.e., Australia and the United Kingdom).

The Steering Committee continues to be mindful of the need for our projects to be successful in order to permit us to continue to draw from the pool of talent in Canadian universities. Time is a precious commodity and professors (and others) are not interested in becoming involved in a project which does not achieve its goal - broad stakeholder support and ultimate implementation in the jurisdictions. Bearing this in mind, the Steering Committee is committed to moving ahead only on projects which truly benefit from broad stakeholder support and are therefore more likely to lead to uniform acts broadly enacted by governments. For this reason, as noted above, the sale of goods project has been deferred to a later date.

The final point I wish to make with respect to our academic supporters relates to funding. This continues to be important to the Strategy in light of the trend for professors to be compensated for research of the type we require. Funding is also an issue with respect to disbursements as we intend to resort to broader consultations and surveys with respect to our various projects.

I again attended Professor Ziegel's annual workshop on commercial and consumer law at the University of Toronto in the fall. On this occasion, I had the opportunity to discuss issues relating to the Commercial Law Strategy with a number of academics from across Canada and beyond who share an interest in law reform, including harmonization in federal states.

d) Consumer Advocacy Groups

The Steering Committee of the Commercial Law Strategy recognizes that Canada's commercial laws cannot be reformed without due consideration being given to the interests of consumers. Governments will only support our efforts to develop a modernized and harmonized commercial law infrastructure if it addresses the needs and interests of consumers as well as those of other sectors.

In this regard, the Steering Committee continues to benefit from the participation on our Steering Committee of Philippa Lawson, Counsel with the Public Interest Advocacy Centre ("PIAC"). In addition, Philippa and I keep each other informed of issues touching upon the Strategy and the interests of consumers on a more informal basis.

PIAC continues to receive funding under Industry Canada's Contributions Program to permit it to provide informed consumer input to the Commercial Law Strategy.

As many of you know, the province of Québec has a very active consumer protection sector. During the past year I was able to meet with representatives of two consumer advocacy groups in this province. The first is Action réseau consommateur (now called l'Union des consommateurs), a non-profit organization involved in the protection of consumer interests in Québec since 1978. This group is very supportive of the goals of the Strategy and has since sent a letter formally endorsing it. Current priorities of the Strategy of particular interest to this organization are those relating to implementation of legislation on cost of credit disclosure and commercial liens. They also noted that they would be very supportive of harmonization projects relating to privacy and standards (i.e. seals of approval).

The second group with which I met is the Montréal-based Option consommateurs, one of the province's most influential consumer protection organizations. This organization is particularly interested in our projects on e-commerce, section 347 of the *Criminal Code*, PPSA, commercial liens, cost of credit disclosure and, when we initiate it, sale of goods. Other areas where this group would support harmonization projects are privacy and the regulation of the distribution of financial products.

e) Endorsements

The formal endorsement of the Strategy by stakeholder groups continues to be critical for our success. During the past year I have continued to nurture the relationships established over the two prior years with organizations which have endorsed the Strategy. This has permitted me to keep them informed of our progress and to solicit from them their input on our current activities as well as on areas which their members would want us to pursue by initiating future projects.

In our meetings, I have reiterated the commitments of Canada's federal, provincial and territorial governments to implementation of the Strategy. I have noted the increased financial support being provided to the Strategy by many jurisdictions as a testament to this commitment. However, in my discussions with them I have also emphasized that this continued government support is very much dependent on strong stakeholder support for the goals of the Strategy.

Since my report to you last year, we have received letters endorsing the Strategy from the following organizations: the Canadian Council of Chief Executives (formerly the Business Council on National Issues), l'Union des consommateurs (formerly Action Réseau Consommateur), the Association of International Automobile Manufacturers of Canada (AIAMC), the Canadian Manufacturers and Exporters (CME), the Insurance Bureau of Canada (IBC) and the Non-prescription Drug Manufacturers Association of Canada (NDMAC). This brings the number of organizations formally endorsing the Strategy to 25. This public demonstration of support significantly adds to the credibility of the Strategy. Ministers, deputy ministers and government policy advisors continue to be interested in seeing the list of endorsers which I distribute at all my meetings with them.

Last year I had reported that the Toronto Board of Trade had put forward for consideration by the members of the Canadian Chamber of Commerce at their annual general meeting in September 2001 a resolution supporting the Commercial Law Strategy. This resolution was in fact adopted by the Chamber with the overwhelming support of its members. I was informed by the Chamber's Senior Vice-President for Policy that the resolution became one of the Chamber's major policy platforms for the year ending September 2002. This was a very positive event for the Strategy and should have contributed to an increase in its visibility within governments since last September.

In addition to the new endorsement letters referred to above, a number of others 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.)

Ongoing Communications with Stakeholders and Others

We continue to use a number of vehicles for regular and effective communications with our many stakeholders and supporters as well as with others who have a general interest in being kept informed about our activities. These communication tools also assist us in maintaining our profile and visibility in the interested sectors.

(a) Commercial Law Strategy UPDATE

Our newsletter, The Commercial Law Strategy UPDATE, continues to be our most successful communications tool. It is now distributed electronically to over 1200 recipients - both organizations and individuals. The Internet has significantly enhanced our ability to maintain regular contact with those upon whose continuing support we are so dependent. It is an inexpensive and highly efficient tool which allows us to profile the work being done to a broader audience and, where appropriate, solicit comments from interested readers. It also permits us to give some public recognition to the many volunteers without whose active participation our projects could not be carried out. The recipients of the UPDATE continue to include lawyers (in private practice, inhouse and in government), legal and business academics, government representatives, business and consumer organizations and others.

The feedback received in response to our newsletter continues to be very encouraging and is evidence of the broad support in Canada for modernization and harmonization of commercial law.

In addition to distributing the newsletter to the individuals whose names I have collected in our mailing list, we continue to be 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, Prince Edward Island and Saskatchewan distribute 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 (www.retailcouncil.org/govrelations/ULCC - over 7000 members), the Canadian Corporate Counsel Association (www.cancorp.counsel.org - over 5000 members), the CBA National Business Law Section (www.cba.org/CBA/Sections/Bus/Commercial_Law.asp - over 4000 members), the Association des Juristes d'Expression Française de l'Ontario (www.webnet/~ajefo) and the CBA Québec Division (www.abcqc.qc.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 significantly increases the visibility of the Strategy and the Conference and the number of "hits" on the Conference's web site.

Some of you may recall from my report last year that the distribution of the UPDATE has not been without its technical challenges. We have continued to experience problems in this regard. Our distribution from a Visto account - a form of freeware similar to hotmail, ran into difficulties as organizations strengthened their internal procedures in an effort to minimize viruses. Indeed more and more organizations (e.g., Royal Bank) have initiated procedures to specifically block email sent from free ware. To address this, we tried to distribute the newsletter using my Rogers account. After several aborted attempts I was advised by Rogers that my mass mailings constituted "spam" and that I was in breach of my agreement with them! Finally, with the assistance of the technical support people at Ken Morlock's firm, we linked my computer to a new server for the purpose of these mass mailings. This appeared to solve the problem

However in more recent mailings we encountered additional difficulties. As the battle against viruses escalated, corporations began to restrict the receipt of mass mailings (regardless of their source) which contained attachments, on the assumption that there could be a virus in the attachment. The individual recipients are not given an opportunity to read my message and decide whether they want to open my attached newsletter as the entire e-mail is frozen automatically by the new procedures. This happened with mail I sent to some government addresses as well as to large corporations.... even my mail to Ken was blocked from getting through! The challenges continued. In order to resolve this latest problem, it was determined that my newsletter could not be distributed as an attachment but that it should be posted on a web site and a hyperlink to it included in my message. This appears to be working for now. As the web site being used for this purpose is that of the Conference, it should significantly increase the number of "hits" on the Conference's web site.

(b) Improved Web Site

At last year's meeting, I noted that the Conference had retained the services of a web designer to improve the Conference's web site. During the past year the web master at the British Columbia Law Institute has been busy posting a number of additional documents and information relating to the Conference and the Commercial Law Strategy on this enhanced web site

The web site now provides readers with access to a variety of information regarding the Strategy. This includes summaries, reports and working papers relating to current projects as well as the identity of the members of various working groups. Also posted are copies of current and past issues of the Commercial Law Strategy UPDATE and details on the organizations which have formally endorsed the Strategy.

As previously noted, links to the web site have been established by a number of organizations and the site is also being used to post Press Releases and to distribute the newsletter.

(c) Articles and Public Speaking Engagements

Profile-raising activities during the past year have also involved the publication of articles on the Commercial Law Strategy and speaking engagements across the country. (See Appendix "C" for a list of these.)

Through these more public activities we are able to reach a wider audience and better ensure that those interested in the Strategy are kept informed and accorded additional opportunities to provide input on our activities and recommendations.

(d) Report to Council of the Canadian Bar Association

The Canadian Bar Association, which was originally responsible for the creation of the Uniform Law Conference of Canada in 1918, continues to be one of the Strategy's strongest supporters.

In 2001, a report from the Uniform Law Conference was added to the agenda of the annual meeting of the Council of the Canadian Bar Association. This was in recognition of the relevance of the Strategy to Canadian lawyers. A report to Council will again be made at its meeting to be held in conjunction with the CBA's annual meeting in London, Ontario in August, 2002 - just before our Yellowknife meeting. We are grateful to the executive of the CBA for providing us with this opportunity to profile the work of the Conference and of the Commercial Law Strategy. In so doing, we have joined the ranks of a number of other legal organizations which provide annual reports on their activities to 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.

(e) Volunteers and Interested Individuals

During the past year expressions of interest in participating in our various projects have been received from a number of lawyers and academics from across Canada. I have continued my practice of collecting their names and particulars to ensure that they receive information on topics of particular interest to them and to expand my data base of volunteers and experts for future projects. The number of volunteers for the franchise project was particularly overwhelming, underlining the need for and interest in uniform franchise legislation in Canada.

The handling of requests for information and distribution of materials, both electronically and in hard copy, is an increasingly time-consuming activity. I look forward to the day when the Strategy is provided with an office and administrative staff to carry out this important function in a more efficient manner.

(f) CBA and NCCUSL

As part of my responsibilities I am required to maintain a liaison with a number of other legal organizations. One of these is the Canadian Bar Association whose National Business Law Section has formally endorsed the Strategy. This Section has invited me to write regular reports on the Strategy for inclusion in the newsletter which it distributes to its more than 5000 members nationally. This past year, the Section also invited me to attend the December meeting of its executive to make a presentation on the activities of the Strategy. Ken Morlock also participated in this meeting.

As part of this ongoing relationship with the CBA, throughout the past year I corresponded with the executive of the national and provincial sections to keep them informed of developments and to solicit substantive input on our projects (e.g. the survey on section 347 of the *Criminal Code*) and to request volunteers (e.g. franchise project). I also met with Daphne Dumont, Past President of the CBA, during my trip to Prince Edward Island in March, 2002. Daphne was largely responsible for having our report added as a standing report on Council's agenda and we are grateful to her for this support.

In October at the invitation of Milos Barutckski (chair of the CBA International Law Section), I attended the 13th annual meeting of the executive of CBA's National Sections with Justice Canada representatives. On this occasion I had the opportunity to discuss the Strategy with a number of government lawyers and private practitioners. During his luncheon presentation, Kevin Lynch, Deputy Minister of Finance, identified Canada's economic infrastructure as one of the five elements required to permit the Canadian economy to flourish in the future. During the question period, I suggested that this criterion should be expanded to include Canada's legal infrastructure and referred to the undesirable consequences of lack of harmonization and modernization of commercial laws. In response to my comment, Mr. Lynch remarked that in fact Canada's economic infrastructure **is its legal infrastructure** - a theme which I have continually pursued in my presentations to government representatives when discussing the merits of supporting the Strategy financially and otherwise.

After the lunch, I spoke to Mr. Lynch about the Strategy. As he is an economist, I inquired into his awareness of the availability of economic studies quantifying the financial cost to Canada flowing from lack of harmonization and modernization of commercial laws. I noted that I am frequently asked for data on this by government ministers, deputy ministers, policy advisors and others but had not yet been able to locate relevant data. Mr. Lynch suggested I contact André Sulzenko, Senior Assistant Deputy Minister of Policy at Industry Canada for this information. Although I later did speak to and correspond with Mr. Sulzenko, I was unable to obtain this type of information. As it is a recurring subject, I will include it in my action plan for next year and contact business faculties for assistance in this regard.

With respect to NCCUSL, I have had helpful communications with my counterparts during the past year on an number of topics. These have included issues relating to budget, procedures for retaining researchers, the work of drafting committees and the like. More recently, when we issued our press release announcing the initiation of a project to develop a uniform franchise act, King Burnett (President of NCCUSL) offered to pay for the attendance at one of the meetings of our working group of the chair of the NCCUSL committee which dealt with this subject in the early 1980's. The working group will be taking him up on his offer in the fall.

In addition, NCCUSL continues to provide 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. NCCUSL also recently requested permission to create a link from their web site to the Conference's web site. This should increase the number of "hits" on our site. We will also create a link on the Conference's web site to that of NCCUSL.

Although in the past two years I attended NCCUSL's annual meeting, due to our current budgetary circumstances I have had to cancel my registration to attend the NCCUSL annual meeting in August 2002.

In addition to these contacts with our colleagues at NCCUSL, international contacts this past year have involved exchanges of information with law professors in the United Kingdom and Australia.

III. ENACTMENT STATUS OF UNIFORM ACTS TARGETED AS PRIORITIES

In my Introduction, I noted that the third priority established by the Steering Committee for the past year was promotion of the speedy enactment of five uniform acts previously adopted by the Conference. My activities in this regard have involved promotion of the targeted acts with government representatives of the jurisdictions and with stakeholder organizations.

With respect to the first group, when I met with various ministers, deputy ministers, policy advisors and others government representatives, I informed them of this priority, identified those acts which remained to be implemented in their respective jurisdictions and advised them of the interested stakeholders in their jurisdiction. At times, they expressed surprise that a particular act had not yet been implemented and undertook to take steps to accomplish this. As a general rule, the response I received when discussing this aspect of the Strategy's priorities was very supportive. It was apparent that failure to implement these uniform acts was not due to lack of interest in or support for them. Rather, it often appeared to be the result of a combination of lack of government resources to carry out the work required for enactment, lack of time on the legislative agenda and the failure of interested stakeholders to exert sufficient pressure on the government.

I have emphasized to government representatives the benefits of participating in the development of uniform acts through the Conference where the lion's share of the work can be carried out by discrete groups of experts and government representatives on behalf of all jurisdictions. This leveraging of resources is beneficial from both financial and non-financial perspectives and should be effective provided we ensure that consultations with the jurisdictions and stakeholders occur regularly throughout the process.

My activities to promote the speedy enactment of the targeted uniform acts with respect to interested stakeholders consisted in my urging them to ensure that their support was signified to the relevant governments formally and repeatedly. I have emphasized that at the end of the day, it is really this stakeholder interest which will result in governments implementing particular uniform acts. The need for the act and broad support for its enactment must be clear and compelling. This is after all part of the Canadian political process.

Turning now to the enactment status of the five targeted acts, progress has been variable and further efforts of Jurisdictional Representatives to promote the acts would will be required.

Uniform Electronic Commerce Act

The exponential growth in electronic commerce we have experienced in the past few years and its borderless nature have made the need for clear, practical and consistent laws governing e-commerce transactions a pressing priority.

Recognizing this, in 1999 the Conference adopted the *Uniform Electronic Commerce Act* ("UECA"). The speed of implementation of this act is one of the Conference's most remarkable achievements in recent years. Indeed, legislation based on the UECA has now been adopted by eleven jurisdictions - Manitoba, Ontario, Saskatchewan, Nova Scotia, PEI, Yukon, British Columbia, Alberta (not yet proclaimed), New Brunswick, Newfoundland and Canada (with variations). Although it did not adopt the uniform act, Québec has also legislated on this subject. (See *An Act to establish a legal framework for information technology* which was proclaimed in force on November 1, 2001).

This success story 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 use of a listserv on the Internet.

Uniform Liens Act

The *Uniform Liens Act* adopted by the Conference in 1996 and amended in 2000 was also targeted for speedy enactment. This act makes a number of significant improvements to the common law. For example, it makes liens assignable, provides for non-possessory statutory liens for repairers, storers and carriers and makes it possible to register and enforce an out-of-province lien in the same manner as an in-province lien. It thus provides benefits to a wide variety of persons, but particularly small businesses and consumers by increasing sources of financing for the former and facilitating the grant of credit to the latter. A number of groups with which I met (especially those representing small businesses) have expressed an interest in this act.

Ontario has modern legislation in this area and two other provinces initiated work on this subject during the past year. Saskatchewan's bill came into force on March 1, 2002. Nova Scotia's Bill 22, *An Act to Codify and Reform the Law Respecting Liens on Personal Property*, which received royal assent on November 22, 2001 will come into force on proclamation. More recently, Yukon has approved the uniform act pending consultations with the private sector. Clearly much work remains to be done in this area.

Uniform Cost of Credit Disclosure Act

Federal and provincial legislation governing cost of credit disclosure was identified as a target for harmonization in the Agreement on Internal Trade signed by all governments in 1994. The *Uniform Cost of Credit Disclosure Act* subsequently adopted by the Conference in 1998 is based on a drafting template prepared by the Consumer Measures Committee which leaves significant matters to be addressed in regulations. For this reason, for effective harmonization to occur, the relevant Ministers must ensure that the regulations as well as the statutes they adopt are in harmony.

Progress on harmonizing this area of the law 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, in my meetings with government representatives during the past year I have encouraged them to model their regulations on the Alberta regulations.

British Columbia will become the second jurisdiction to implement cost of credit disclosure legislation. The B. C. regulations have now been passed and both the act and the regulations will come into force on September 1, 2002. (This was delayed from March 1 at the request of the industry.) The B.C. regulations can be consulted on the website of the Ministry of Public Safety and Solicitor General at www.gov.bc.ca/pssg.

Saskatchewan's Bill No. 25, *The Cost of Credit Disclosure Act, 2002* received third reading on June 17 and royal assent on June 20, 2002. It will come into force on its proclamation which is planned for July 1, 2003. New Brunswick has enacted the legislation (with some modifications) and is currently working on developing the relevant regulations. Nova Scotia's *Uniform Cost of Credit Disclosure Act* adopted in November 2001 will come into force upon proclamation.

In Ontario, amendments have been passed to the Consumer Protection Act (CPA) as well as to several acts administered by the Ministry of Finance relative to mortgage brokers, credit unions, and insurance companies to establish standards for cost of credit disclosure. The Ontario Ministry of Consumer and Business Services is working on the regulations under the CPA which are expected to come into force some time in 2003, after the regulations have been filed and the financial sector given a period of time to develop materials and services to be in compliance. The Ministry of Finance is also working on regulations under their legislation. The various legislative amendments to incorporate cost of credit disclosure provisions in several Ontario acts were included in *Bill 11 - the Red Tape Reduction Act, 1999*.

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 - the *Uniform Enforcement of Canadian Judgments and Decrees Act* and the *Uniform Court Jurisdiction and Proceedings Transfer Act* adopted in 1997 and 1994 respectively.

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.

Seven jurisdictions (BC, PEI, Saskatchewan, Newfoundland, New Brunswick [with modifications], Yukon and Nova Scotia) have enacted the *Uniform Enforcement of Canadian Judgments Act*. Of these, only Nova Scotia and Saskatchewan have enacted the part of the uniform act pertaining to decrees or non-monetary judgments). Of all of these, only the PEI legislation has been proclaimed in force. Proclamation of the Saskatchewan act is planned for the fall, 2002 and Ontario is currently looking at introducing a bill on this subject.

In my report last year I had noted that one of the reasons for the delay in proclamation of the enforcement act appears to be the reluctance of jurisdictions to enact legislation which will give rights to citizens of other jurisdictions on a non-reciprocal basis. At a meeting I had this past year with the Honourable Michael Baker, Minister of Justice for Nova Scotia, he indicated that he would raise with his colleagues in the other jurisdictions the possibility of arranging for simultaneous proclamation of this act.

The *Uniform Court Jurisdiction and Proceedings Transfer Act* has 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 both of these uniform acts.

IV. GOVERNMENT RELATIONS

Key to the successful implementation of the Commercial Law Strategy is the on-going support of the federal, provincial and territorial governments. This support manifests itself through financial contributions to the budget of the Strategy, various in-kind contributions and, ultimately, implementation of the uniform acts developed as part of the Strategy.

The continued support of these governments requires that they be kept informed of the needs and activities of the Strategy. This is partly accomplished through the work of the Jurisdictional Representatives appointed by the governments. Under the Conference's constitution, the Jurisdictional Representatives are responsible for "ensuring that the work of the Sections is brought to the attention of appropriate members of the Cabinet and Deputy Ministers" and for "promoting, monitoring and advancing the implementation of the Sections' work in the jurisdictions as may appear appropriate to meet the needs of the jurisdictions and the mandate of the Conference" (See Part 4, Section 9(3) of the ULCC's Constitution).

Thus through the Jurisdictional Representatives, the Conference has a vehicle which allows it to both keep its government members informed of developments at the Conference as well as to solicit the views of these members on current and desirable future projects.

In my role as National Coordinator of the Strategy I have also taken steps this past year to keep our government members informed. These have included writing articles for the fall and spring Communiqués as well as two reports to the Deputy Ministers of Justice. The Steering Committee of the Strategy was advised by the executive of the Conference that these reports were very favourably received by the Deputy Ministers. In fact, recognition of the work of the Strategy and its potential to make a significant contribution to the Canadian economy has led most jurisdictions to increase their financial contributions to the budget for the Strategy (see Appendix "G" for details of these contributions.)

As the initial funding of the Strategy was for a two-year term ending on March 31, 2002, I also was required to prepare a report to Justice Canada to accompany the financial reports required under the terms of the Funding Agreement.

In addition to writing these articles and reports, as time and resources have permitted, I have endeavoured to meet with representatives of governments, particularly with those I had not met with previously. As of the date of the writing of this report, meetings have been held this past year with representatives of the governments of (in alphabetical order) Canada, Nova Scotia, Ontario, Prince Edward Island and Québec (See Appendix E for a list of government representatives with whom I have met to date). For budgetary reasons, we were obliged to cancel meetings arranged in April with three deputy ministers in Manitoba. These will be re-scheduled when the new Funding Agreement is finalized. This will leave Nunavut, Yukon and Northwest Territories as jurisdictions yet to be visited. (Arrangements are being made to permit me to meet with key people in this jurisdiction during the course of this meeting).

In my meetings with government representatives I have brought them up to date on the activities of the Strategy and made them aware of the significant support which it has garnered in the Canadian business, legal, academic and consumer advocacy communities. I have also solicited their support in implementing the uniform acts in their

jurisdictions, emphasizing that this will be the ultimate measure of the success of the Strategy.

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.

Representatives of all our government members realise the financial and other benefits which can accrue to them from leveraging the expertise of the members of the Conference's various working groups. This is particularly apparent in an era in which resources available for reform of commercial laws have decreased as demands from other areas such as medical care and security are given priority.

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 our action plan for the coming year.

The members of the Steering Committee continue to be encouraged by the overwhelming support for the goals of the Strategy and for the momentum which has been achieved since its inception. We have succeeded in capturing the interest of stakeholders who see the Strategy as having the potential to address some of the problems arising from the current legal infrastructure. We must ensure that they are not disappointed.

This will require the continued commitment of governments to implement the uniform acts which will be recommended as part of the Strategy. Our recommendations in this regard will only be made after thorough review of the law and business practices by the experts on our working groups and broad and effective consultations with relevant stakeholders.

When the Funding Agreement is finalized, a planning meeting of members of the Steering Committee will be held to review the achievements and lessons of the past year and to establish priorities for the coming year.

It has become quite apparent that adequate funding will be critical to the success of the Strategy. With the current funding levels, we are not able to establish the administrative infrastructure which permits NCCUSL to achieve its successes with the *Uniform Commercial Code*. At NCCUSL, drafting committees meet face-to-face at least three times per year and are supported by the legal and administrative staff at the Chicago head office. The head office organizes and conducts mailings, surveys, consultations and the like. It provides administrative and secretarial support to the various drafting committees and members of the executive. Staff at head office respond to requests for information from the general public, print publications and market the organization's activities to its stakeholders.

We in Canada have the added challenge of meeting our translation obligations. In my view there should be a much larger budget allocated to allow this important aspect of the Strategy to be carried out on a more timely and efficient basis. Currently we are usually obliged to enlist the assistance of volunteer governments. Although this assistance is greatly appreciated, it means that we are not in full control of timing. Working groups are encouraged to complete their work far in advance of the annual meeting to ensure sufficient time for translation. Ideally, they are asked to have their final reports ready by June 1 - a full 2 ½ months before the annual meeting. In addition to the reports for the annual meeting, the Strategy is also producing a number of excellent background papers which we will want to post on the Conference's web site for our stakeholders to consult. These now include six reports prepared by members of the PPSA working group as well as a review paper of franchise laws in the world prepared by the franchise working group. All will require translation in order to be posted on the web site.

During this past year there have been discussions relating to potentially significant increases to future funding of the Strategy. This would dramatically impact the manner in which the Strategy moves forward. When considering increased funding to the Strategy, governments should recognize that they would simply be increasing funding of their own activities. For the financial contributions of governments to the Strategy (and to the Conference in general) are entirely different from contributions made to third party organizations or projects. In my opinion they should be seen as financial commitments made by the various governments to themselves. For what are the Conference and the Commercial Law Strategy other than a government organization and a government project?

Overall Priorities

Although the Steering Committee has not yet been able to hold its planning meeting, I anticipate from our past discussions that the priorities for the Strategy (in no particular order) will continue to relate to:

- ▶ 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;
- ▶ Continuing to encourage the enactment of the uniform acts targeted for speedy enactment; and
- ▶ Maintaining the rapport which has been established with our government supporters.

Projects

The Steering Committee will continue to assess suggestions made by stakeholders in an effort to identify those projects which are likely to result in broadly implemented uniform acts. Administrative procedures relating to projects will continue to be improved. This past year a standard retainer letter was developed. As we will soon initiate broad consultations on our PPSA and franchise projects, we are looking at establishing the most efficient and cost-effective means of conducting these.

Last year I noted that topics then being considered for new projects included franchise law, privacy, criminal rates of interest, issues relating to the *Bank Act* and provincial *PPSA* legislation and transactional requirements for cheques. As noted above, we have initiated projects on three of these (i.e., franchise, criminal interest rates and *Bank Act* and provincial *PPSA* legislation issues). The Canadian Payments Association has retained Bradley Crawford to prepare a report on transactional requirements for cheques. Eventually this may involve the participation of the Conference under the Strategy. As for privacy, although no project is currently underway, a number of our stakeholders have indicated to me (either verbally or in writing) their desire for uniform legislation in this area and have encouraged the Conference to initiate a project to achieve this uniformity.

Experts, interested parties and volunteers will continue to be added to our data base of individuals who can be consulted as required.

Profile Raising

(a) Relationships with Governments

During the coming year, I will continue to meet with representatives of our member governments

to ensure that they are kept informed of our progress and to solicit from them suggestions on areas of commercial law where they feel the Strategy should initiate new projects.

I will continue to rely on the Jurisdictional Representatives to keep their respective governments informed and to advocate with them on behalf of the Strategy and its implementation. The Steering Committee had previously considered the possibility of identifying liaison deputy ministers in the departments impacted by the Strategy in each jurisdiction. I had written to the Jurisdictional Representatives for information on these individuals and will be discussing this matter further with the Steering Committee members at our planning meeting.

(b) Relationships with Stakeholders

It is important that we nurture the relationships established with stakeholders through regular communications. I will therefore continue to meet with them and obtain their input on our current and future activities. As previously noted, the uniform acts we develop will not be broadly implemented unless we obtain this input at all stages of our work, including ultimate endorsement for the final product.

I will also meet with stakeholders who have been identified but not yet contacted due to lack of time and resources. 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 is an excellent, cost-efficient communications vehicle. I will continue to produce and improve it as well as expand its mailing list to ensure its broad distribution. In order to ensure that the information in the UPDATE is current, I would encourage the Jurisdictional Representatives to e-mail me promptly with news on relevant developments in their jurisdiction.

Last year I had noted that we were considering including comments/articles by stakeholders and others. We came very close to publishing articles by the Ontario and federal governments in our last issue. Unfortunately timing considerations made this impossible. I do however encourage you to contact me with your contributions for future issues.

CONCLUSION

The Commercial Law Strategy, like any project of its kind, has experienced its challenges, successes, rewards, disappointments and frustrations. This is good sign as it indicates that the Strategy is a vibrant, living project!

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. His resignation was one of the disappointments of the past year and I will miss him greatly. I am nevertheless pleased that he will continue to serve as a member of the Steering Committee for he has a wealth of knowledge, wisdom and experience to bring to our deliberations;
- ▶ the members of the Strategy's Steering Committee (whose names appear in Appendix "F") whose combined knowledge, good will, experience and enthusiasm enrich our discussions;
- ▶ the President of the Civil Section, Susan Amrud, who has continued to guide us in her usual efficient manner;
- ▶ Arthur Close, President of the Conference, who spent countless hours working on the funding proposal which will assure the continued financial viability of the Strategy;
- ▶ 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

I would also like to extend a warm welcome to my new chair, Jennifer Babe. Jennifer and I have known each for many years through our involvement with the CBA and OBA. Jennifer is a very experienced commercial lawyer and is well respected both by her peers and her clients. I am delighted that she has agreed to take on the position of Chair of the Steering Committee of the Commercial Law Strategy and look forward to working with her during the coming year.

The Commercial Law Strategy is an exciting initiative with great potential for Canada and Canadians and I am proud to be a part of it. No doubt we will experience some ups and downs as we move towards our long-term goal of creating a comprehensive framework of harmonized modern commercial law in Canada. However, with the active participation of all stakeholders and the financial and political support of all levels of government, we will succeed in attaining this goal.

As a Canadian and on behalf of all Canadians who will be the ultimate beneficiaries of the improved commercial law infrastructure we are seeking to create, I wish to thank the federal, provincial and territorial governments for their vision and continued financial support of the Strategy.

APPENDIX A - STAKEHOLDERS CONTACTED TO DATE (in alphabetical order)

Business and Consumer Advocacy Organizations

Academy of Legal Studies in Business
Action Réseau Consommateur (now l'Union des consommateurs)
Alberta Law Reform Institute
Alberta Chamber of Commerce
Association of International Automobile Manufacturers of Canada (AIAMC)
British Columbia Law Institute
British Columbia Chamber of Commerce
Canadian Advanced Technology Association (CATA)
Canadian Association of Importers and Exporters Inc.
Canadian Automobile Dealers Association
Canadian Bankers Association
Canadian Capital Markets Association
Canadian Chamber of Commerce
Canadian Chamber of Commerce - PEI Branch
Canadian Council of Chief Executives (formerly the Business Council on National Issues)
Canadian Credit Grantors Association

Canadian Life and Health Insurance Inc. (CLHIA)
Canadian Employers Council (CEC)
Canadian Finance and Leasing Association (CFLA) and several of its corporate members
Canadian Franchise Association
Canadian Manufacturers and Exporters (CME)
Canadian Apparel Federation (CAF)
Canadian Institute of Chartered Accountants (CICA)
Canadian Radio-television and Telecommunications Commission (CRTC)
Canadian Federation of Independent Business (New Brunswick)
Canadian Federation of Independent Business (Ontario)
Canadian Federation of Independent Business (Alberta Branch)
Canadian Federation of Independent Business (Atlantic Provinces)
Canadian Wholesale Drug Association
Canadian Federation of Independent Business (Saskatchewan Branch)
Conseil du Patronat du Québec
Consumers Association of Canada (CAC)
Fredericton Chamber of Commerce
Information Technology Association of Canada (ITAC)
Insurance Bureau of Canada (IBC)
Insurance Brokers Association of Canada (IBAC)
Islanders for Fair Franchise Law
Non-prescription Drug Manufacturers Association of Canada (NDMAC)
Option Consommateurs
Public Interest Advocacy Centre (PIAC)
Retail Council of Canada
Saskatchewan Chamber of Commerce
St. John's Board of Trade
Toronto Board of Trade
Used Car Dealers Association

Legal Academics (Law Schools)
Dalhousie University
Laval University
Law Commission of Canada
McGill University
Université du Québec à Montréal
University of Ottawa - civil law section and francophone professors of common law section
University of Calgary
University of British Columbia
University of Sherbrooke
University of Toronto
University of Victoria
University of New Brunswick
University of Montréal
University of Saskatchewan
York University

Business Faculty Academics
Memorial University
Queens University
University of Western Ontario
University of Toronto
Waterloo University

Lawyers

Alberta Branch of CBA - speeches in Calgary and Edmonton
Association des juristes d'expression française de l'Ontario (AJEFO)
Barreau du Québec
BC Branch of CBA
Canadian Corporate Counsel Association (CCCA)- presentation at spring conference
Canadian Bar Association, Québec Division
Canadian Bar Association, Executive of National Business Law Section
CBA Council - report to be given in August
CBA International Law Section
Law Society of Newfoundland
Law Society of Nova Scotia
Law Society of Prince Edward Island
Manitoba Branch of CBA
Nova Scotia Branch of CBA
Nova Scotia Law Reform Commission
PEI Branch of CBA
Saskatchewan Branch of CBA - speeches in Regina and Saskatoon

APPENDIX B - ENDORSERS (in alphabetical order)

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.

Action Réseau Consommateur (now called l'Union des consommateurs)

Action Réseau Consommateur is a non-profit organization in Québec whose mandate is to protect the interests of consumers. It was established in 1978 and is one of the two large consumer protection organizations in the province. There are over 50 government-funded consumer protection organizations in the province.

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.

Association of International Automobile Manufacturers of Canada (AIAMC)

The Association of International Automobile Manufacturers of Canada (AIAMC) represents before federal, provincial and territorial governments the interests of members engaged in the manufacturing, importation, distribution and servicing of light duty vehicles, whose head offices are located outside Canada and the United States. Currently there are 14 members (BMW, Daewoo, Honda, Hyundai, KIA, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Porsche, Subaru, Suzuki, Toyota and Volkswagen) and 6 representative and sustaining members.

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.

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 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.

Canadian Council of Chief Executives (formerly the Business Council on National Issues)

The CCCE is a non-partisan, not-for-profit organization engaged in public policy research and advocacy. Its members are the chief executive officers of leading Canadian enterprises. In total, these enterprises administer in excess of \$2 trillion in assets, have annual revenues of more than \$500 billion and employ about 1.3 million Canadians.

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.

Canadian Manufacturers & Exporters

Canadian Manufacturers & Exporters is Canada's leading business network. Its members account for 75% of Canada's industrial output and 90% of its exports. Over the past seven years, they have been responsible for 45% of the jobs created in the Canadian economy.

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.

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.

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.

Insurance Bureau of Canada

Insurance Bureau of Canada is the national trade association representing property and casualty insurance companies which insure the homes, cars and businesses of Canadians. A voluntary association, its members account for over 90% of private property and casualty insurance premiums in 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.

Nonprescription Drug Manufacturers Association of Canada (NDMAC)

The NDMAC is the national association representing manufacturers, marketers and distributors of self-care products including non-prescription medications, herbal remedies/natural health products and nutritional supplements.

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.

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.

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.

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.

VW Credit Canada, Inc.

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

APPENDIX C - PRESENTATIONS AND ARTICLES

PRESENTATIONS/MEETINGS

October 12 - CBA National Sections and Justice Canada Meeting

October 18-19 - Commercial Law Workshop at the University of Toronto

November 3 - Executive of CBA National Business Law Section
November 16-17 - Intellectual Property Law Roundtable, London
November 28 - Canadian Banker Association
November 29 - Insurance Brokers Association of Canada
December 4 - John Tait Memorial Lecture
January 10 - Law Society of Nova Scotia
January 10 - Canadian Bar Association - Nova Scotia Branch
January 10 - Dalhousie Law School
January 11 - Canadian Federation of Independent Business, Atlantic Office
January 11 - Canadian Life and Health Insurance Association
January 12 - Retail Council of Canada
February 6 - Canadian Federation of Independent Business - Ontario Branch
February 22 - Non-prescription Drug Manufacturers of Canada
February 22 - Canadian Chamber of Commerce
February 25 - Canadian Franchise Association
March 4 - Insurance Bureau of Canada
March 11 - Action Réseau Consommateur (now called l'Union des consommateurs)
March 11 - Option Consommateur
March 14 - Islanders for Fair Franchise Legislation
March 14 - Law Society of PEI and Canadian Bar Association - PEI Branch
March 27 - Canadian Bar Association - Manitoba
May 28 - Association of International Automobile Manufacturers of Canada

ARTICLES

Fall and Spring Communiqué
UCC Bulletin
CBA National Business Law Section Newsletter
Article the Franchising, Licensing and Distribution chapter of *O'Brien's Encyclopedia of Forms*
(In preparation)

APPENDIX D - WORKING GROUPS (in alphabetical order)

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

Professor Emeritus Lyman Robinson (University of Victoria), Mounia Allouch (Justice Canada), Professor Tamara Buckwold (University of Saskatchewan), Caroline Carter (British Columbia Law Institute as Reporter), Arthur L. Close, Q.C. (British Columbia Law Institute), Professor Ron Cuming, Q.C. (University of Saskatchewan), Chris Curran (Government of Newfoundland), Hélène Fortin (????), Geoff Ho, Q.C. (Government of Alberta), Marie José Longtin (Government of Québec), Darcy McGovern (Government of Saskatchewan), Keith Pritchard (???), Tim Rattenbury (Government of New Brunswick), John Twohig (Government of Ontario) and Professor John Williamson (University of New Brunswick).

Jurisdiction and Consumer Protection in Electronic Commerce

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

Joint working group (in alphabetical order): André Allard (Government of Québec), Larry Bryenton (Industry Canada), David Clarke (Industry Canada), Philip Halliday (Industry Canada), Rob Harper (Government of Ontario), Gerald Hashey (Government of Nova Scotia), M. Kolbe (Government of Manitoba), Peter Lown (Alberta Law Reform Institute), Doug Moen (Government of Saskatchewan), Karen Pflanzner (co-chair, Government of Saskatchewan) Rob Phillips (Government of Alberta), Tim Rattenbury (Government of New Brunswick), Lynn Romeo (co-chair - Government of Manitoba), Kathryn Sabo (Justice Canada), Frédérique Sabourin (Government of Québec), Johannes Wolff (Government of Ontario) and Hélène Yaremko-Jarvis (ULC Commercial Law Strategy).

PPSA

Professors Ron Cuming (University of Saskatchewan) and Catherine Walsh (McGill University) (co-chairs), Professor Tamara Buckwold (University of Saskatchewan), John Cameron (Torys), Arthur Close, Q.C. (BC Law Institute), Michel Deschamps (McCarthy Tétrault), Ken Morlock (Fasken Martineau DuMoulin), Professor Rod Wood (University of Alberta), Professor Jacob Ziegel (U of T) and Hélène Yaremko-Jarvis (ULC Commercial Law Strategy).

Federal Secured Transactions

Preliminary report by Howard Knopf (Shapiro Cohen)

Second report by Professors Catherine Walsh (McGill University) and Norman Siebrasse (University of New Brunswick)

Franchise

Frank Zaid (Osler Hoskin and Harcourt LL) and John Sotos (Sotos & Associates) (co-chairs), Richard Cunningham (President, Canadian Franchise Association), Jean H. Gagnon (Pouliot Mercure - Montreal), Professor James E. Lockyer (Université de Moncton), Bruce Macallum (Government of British Columbia), Leonard Polisky

(Gowling Lafleur Henderson, LLP - Vancouver), Danny Zalmanowitz (Witten LLP - Edmonton) and H el ene Yaremko-Jarvis (National Coordinator, Commercial Law Strategy).

Section 347 of the *Criminal Code*

Professor Mary Anne Waldron (University of Victoria)

Section 427 of the *Bank Act*

Professor Rod Wood (University of Alberta) with the assistance of the members of the PPSA working group

APPENDIX E - GOVERNMENT REPRESENTATIVES MET TO DATE (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 R atel, 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

Phillip Halliday, Legal Policy Analyst, Office of Consumer Affairs, Industry Canada

Benoit Turcotte, Senior Legal Policy Analyst, Corporate Governance Branch, Industry Canada

Kevin Lynch, Deputy Minister of Finance

Luc Andr e Vincent, Policy Analyst, Copyright Policy Branch, Canadian Heritage

Malaka Hendela, Policy Analyst, Copyright, Industry Canada

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

NOVA SCOTIA

The Honourable Michael G. Baker, Q.C., Minister of Justice

Christine McCulloch, Q. C., Director, Department of Justice

Jonathan Davies, Director and Registrar of Companies

The Honourable Angus MacIsaac, Minister of Service Nova Scotia and Municipal Relations

Cathleen O=Grady, Senior Solicitor, Department of Service Nova Scotia and Municipal Relations

Greg Keefe, Executive Director - Program Management and Corporate Services, Provincial Tax Commission

Holly Fancy, Technology and Science Secretariat

John Briggs, Executive Director and General Counsel of the Nova Scotia Law Reform Commission

ONTARIO

Mark Freiman, Deputy Minister of Justice and Deputy Attorney-General

Sandy Lang, Deputy Minister of Consumer and Business Services

Barbara Miller, Deputy Minister of Economic Development and Trade.

Murray Segal, Assistant Deputy Minister of Justice

Dana Richardson, Assistant Deputy Minister of the Ministry of the Environment

Raj Chauhan, Ontario Management Board Secretariat

Mark Leach, Director, Policy Branch, Ministry of the Attorney General

John Lee, Counsel, Ministry of the Attorney General

Katherine McGuire, Director, Trade and International Policy Branch, Ministry of Economic Development and Trade

Stephen de Boer, Senior Policy Advisor, Trade and International Policy Branch, Ministry of Economic Development and Trade

Neil Smith, Director, Economic Development Strategy Branch, Ministry of Economic Development and Trade

Rob Harper, Project Manager, Consumer Protection Reform, Ministry of Consumer and Business Services

Scot Weeres, Director, Red Tape Secretariat

Josephine Atri, Legal Counsel, Red Tape Secretariat

PRINCE EDWARD ISLAND

Patsy MacLean, Assistant Deputy Attorney General

Edison Shea, Director of Consumer, Corporate and Insurance

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

Mme. Nicole Fontaine, President of the Office de la protection du consommateur

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.

Josephine Atri, Legal Counsel,

Red Tape Secretariat (Cabinet Office)

Government of Ontario

Jennifer E. Babe

Miller, Thomson LLP

Prof. Vaughan Black

Faculty of Law

Dalhousie University

Chris Charette

Director, Internal Trade and Outreach

Policy Sector, Industry Canada

Arthur L. Close, Q.C.

Executive Director

British Columbia Law Institute

Bradley Crawford, Q.C.

McCarthy Tétrault

Christopher Curran

Department of Justice

Newfoundland

J. Michel Deschamps

McCarthy Tétrault

Montreal

Philippa Lawson

Counsel, Public Interest Advocacy Centre

Peter J.M. Lown, Q.C.
 Director
 Alberta Law Reform Institute
 Prof. Roderick A. MacDonald
 Faculty of Law
 McGill University
 Katherine McGuire
 Director - Trade and International Policy Branch
 Economic Development and Trade
 Michael W. Milani
 McDougall, Gauley
 Douglas E. Moen, Q.C.
 Deputy Minister of Justice
 Government of Saskatchewan
 Kenneth C. Morlock (Chair)
 Fasken Martineau DuMoulin LLP
 Tim Rattenbury
 Solicitor, Department of Justice
 New Brunswick
 Kathryn Sabo, Senior I Counsel
 Public Law Policy Section, Private International Law Team
 Department of Justice Canada
 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
 John Twohig, Counsel - Policy Branch
 Business Policy and Planning Division
 Attorney General of Ontario
 Prof. Roderick Wood
 Law Commission of Canada/University of Alberta
 Claudette N. Racette
 Executive Director
 Hélène Yaremko-Jarvis
 National Coordinator
 Commercial Law Strategy

**APPENDIX G - UNIFORM LAW CONFERENCE OF CANADA
 ANTICIPATED CONTRIBUTIONS AS OF JUNE 12, 2002
 FOR THE COMMERCIAL LAW STRATEGY**

	JURISDICTION	2002-2003	2003-2004	2004-2005
Justice Canada	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000
Industry Canada	100,000	100,000	100,000	100,000
Alberta	6,000 (Paid)	6,000	6,000	6,000
British Columbia	6,000 (Paid)	6,000 (Paid)	6,000 (Paid)	6,000 (Paid)
Manitoba	0			
New Brunswick	2,000	2,000	2,000	2,000
Newfoundland	1,000 (Paid)	1,000	1,000	1,000
N.W.T.	1,000 (Paid)	1,000	1,000	1,000

Nova Scotia	6,000 (Paid)	6,000 (Paid)	6,000 (Paid)
Nunavut	1,000	1,000	1,000
Ontario	6,000	6,000	6,000
P.E.I.	1,000 (Paid)	1,000	1,000
Quebec	6,000 (Paid)	6,000	6,000
Saskatchewan	6,000 (Paid)	6,000 (Paid)	6,000 (Paid)
Yukon	2,500	2,500	2,500
CONFIRMED	\$294,500	\$ 294,500	\$ 294,500