



**UNIFORM LAW CONFERENCE OF CANADA**

**PLENARY DISCUSSION DOCUMENT**

## **PROGRESS REPORT - STRATEGIC PLAN**

**Presented at a joint session of the Civil and Criminal Sections  
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## **STRATEGIC PLAN**

### **Introduction**

The overall goal of the Strategic Plan Oversight Committee (SPOC) this year was to make significant progress on elements identified at the annual meeting last year to ensure that key aspects of the organizational renewal be completed in time for implementation / adoption at the 100th annual meeting of the ULCC in Quebec City in 2018. Members of SPOC included: Josh Hawkes, Elizabeth Strange, Luc Labonte, Genevieve Harvey, Clark Dalton, Lucie Angers, Dorette Pollard, Stephanie O'Connor, Russell Getz, Cathy Cooper, Peter Lown, Marie Bordeleau, and Manon Dostie.

### **Strategic Issues**

The key elements for the initial phase of this project were agreed upon by the delegates at the Annual Meeting in Fredericton in August 2016. Those elements were described (in an order not reflecting priority) in the Strategic Plan 2016 as follows:

- 1) updating the Constitution and By-Laws of the ULCC including considering the name of the organization;
- 2) modernizing the communications strategy and website;
- 3) addressing the financial status and long term stability of the ULCC;
- 4) formalizing and refreshing relationships with FPT governments;
- 5) formalizing and refreshing relationships with the CBA, law reform institutes and other law bodies; and
- 6) timing and length of the annual meeting.

We have made significant progress on most of these items as described in greater detail below.

#### **1) Constitution and By-Laws of the ULCC, including the name of the ULCC**

The latest ULCC Constitution was adopted in 1990 and last amended in 1996. Since that time there have been several operational changes to the structure and function of significant components of the organization. These changes created a significant gap between the structure and process as outlined in the Constitution, by-laws, and related documents and the actual function of the ULCC.

A sub-group met regularly during the year to examine the current Constitution and By-laws and propose modifications. Members included: Josh Hawkes, Elizabeth Strange, Clark Dalton, Lucie Angers, Dorette Pollard, Stephanie O'Connor, Russell Getz, Cathy Cooper, Peter Lown, Marie Bordeleau, and Manon Dostie. The members of the sub-group consulted many Committees of the ULCC including the Executive, the Criminal Section Steering Committee, the Civil Section

Steering Committee, the Advisory Committee on Program Development and Management (ACPDM), and the Finance and Budget Committee.

As an overall approach, the sub-group worked on the premise that the Constitution should be brief, describing the purpose, mandate, and essential components of the ULCC and that the By-Laws would provide more details on the structure and function of these essential components. Those proposed modifications and instructions were given to drafters from New Brunswick in May to July of this year.

The drafts aim to align modern practices in the ULCC, clarify roles and responsibilities of various players and Committees including the President, Vice President, Jurisdictional representatives, Steering Committees, Section Chairs, Finance and Budget Committee, Advisory Committee on Program Development and Management, Section Chairs and others. Proper definition and clarification of these roles will enable the Executive and other players to more effectively carry out governance, planning, and administrative functions.

The revised draft Constitution and revised draft By-laws are presented for your consideration and comments and questions. The objective is to get your guidance on the work done to date to enable the sub-group to finalize these documents in advance of the centennial meeting in 2018.

For the discussion on the name of the organization and whether or not it would be beneficial for the organization to change its name, please refer to annex 1. Dorette Pollard pulled together a document outlining 3 options along with pros and cons for each option as considered by the SPOC (i) status quo, (ii) Uniform Law Commission of Canada or (iii) Uniform Law Council of Canada.

## **2) Communications strategy and website**

The bi-annual Communiqué and website play a critical role for the organization. They are the public face of the ULCC. They are the means through which the work product of the ULCC is made available to the public. They are also an important channel of communication to Jurisdictional Representatives, delegates and other participants in the work of the ULCC.

This year, the Publications Committee (Ian Rennie, Clark Dalton, Dorette Pollard and Marie Bordeleau) headed by Genevieve Harvey worked on a variety of aspects to update our communications and prepare for a new ULCC website.

The Committee was instrumental in revamping the ULCC's newsletter this year. The format was streamlined to reduce duplication and provide better communication to non-ULCC recipients.

Further to consultations, the Committee prepared a high level outline of the website project as the basis of an RFP to service providers. Publications and documents are being given a consistent look and format in preparation for a new website. A general information email address was also set up for use on the Publications section of the website. The retention of external experts and assistance will be required to launch a modern website.

### **3) Financial Status and Long Term Stability of the ULCC**

The ULCC is facing pressing immediate, medium and long-term financial issues. The Finance and Budget Committee comprises Josh Hawkes (until April), Manon Dostie (since April), Peter Lown, Kathryn Sabo, Clark Dalton, and Marie Bordeleau. Topics discussed included the annual assessments, in-kind contributions, interpretation and translation needs, funding for a new website, process for the adoption of proposed annual budgets and the need to entrench and clarify responsibilities for this Committee in the By-laws.

Ongoing work on these important issues by a dedicated Finance and Budget Committee will continue this year with the objective of ensuring the long term sustainability and viability of the ULCC.

### **4) Relationships with FPT governments**

The relationship is multi-faceted and complex. Governments provide significant financial, human and in-kind contributions to support the ULCC. Governments are also the intended audience for the ULCC's products whether Uniform Acts, resolutions and other work product of the organization. Responsibilities of the Executive and of the jurisdictional representatives need to be clarified operationally and possibly in the By-laws. Work on this topic is ongoing.

### **5) Alliances and Outreach**

A sub-group has been tasked with examining the ULCC's relationship with the Canadian Bar Association (national and provincial sections) given its important role in the formation of ULCC. Relationships with other groups, such as law reform institutes, Chambre des Notaires du Québec and le Barreau du Québec, as well as with international uniform law groups, including the Uniform Law Commission of the US are also being considered since the ULCC's 100<sup>th</sup> anniversary is an opportunity to solidify those alliances. The sub-group, which is composed of Lucie Angers (chair), Eric Gottardi, Clark Dalton, Kathryn Sabo, Stéphanie O'Connor and Dorette Pollard, will continue its work this year.

### **6) Timing and length of the Annual Meeting**

Although more operational in nature, the present length, timing and location of Annual Meetings is a topic that comes up regularly. Are changes required to facilitate attendance and ensure that Annual Meetings are well attended and productive? Delegates are invited to comment.

## **Next Steps**

The Executive Committee, SPOC and its many sub-group members are looking forward to your feedback this week. The Strategic Review will be discussed not only in joint plenary sessions but also individually in the Civil and the Criminal Section sessions, and during the Jurisdictional Representative lunch with the Executive. SPOC members are also available to discuss informally with you in between sessions.

SPOC members will be meeting on Thursday afternoon to take stock of this week's discussions and plan the upcoming year's work.

Any additional comments can be sent to Marie Bordeleau, Executive Director of the ULCC via email at [marie.bordeleau@ulcc-chlc.ca](mailto:marie.bordeleau@ulcc-chlc.ca) before October 1<sup>st</sup>, 2017.

In addition, to follow a tradition started by our immediate Past President Elizabeth Strange, a mid-year conference call(s) will be organized for jurisdictional representatives from the Criminal and the Civil Sections. Amongst other topics, it will be an opportunity to update jurisdictional representatives on the progress of the strategic review and seek punctual feedback as needed.

## **Annex 1 - Discussion on the Name (Dorette Pollard)**

The Strategic Plan Overview Committee (SPOC) agrees that this may be an opportune time to consider whether or not the name of the ULCC should be changed or remain the same.

The matter was discussed at SPOC teleconference meetings of October 13, and December 8, 2016, as well as on February 9 and 15, and again on July 12, 2017. There was consensus that any proposed name change should keep the existing acronyms in both official languages i.e., ULCC and CHLC. Consideration was also given to whether the word “harmonization” should be substituted for the word “uniform” and/or incorporated into a new name.

It is anticipated that a final decision will be made at the ULCC 2017 annual meeting. Here are three options proposed by SPOC. Each option is followed by a brief synopsis of some pros and cons. All options enable us to retain the current acronym in both languages. “ULCC / CHLC”.

### **Option 1: Uniform Law Commission of Canada**

The change of name to “Commission” would entail more than a name change. First, the word Commission implies that this is an organization that does work all year round and is more than a once-a-year-get-together or retreat commonly associated with the nature of a Conference. Second, the change to “Commission” may help to correct this misconception and increase funding from Federal-Provincial and Territorial (FPT) governments. Third, Jurisdictional Representatives (JRs) and delegates would then be called Commissioners, which may increase their profile and assist in reaffirming the notion of independence, especially for representatives from FPT governments. Fourth, in the absence of a federal law reform commission, for example, the ULCC would step into a role that would normally belong to such an organization.

Finally, this option proposes a return to the organization’s roots. In fact, when the ULCC began in 1918, there were two “C”’s in the name not counting the “C” in Canada. The original name followed that of the American Conference that the founders based the Conference on: “The Conference of Commissioners on Uniformity of Laws throughout Canada” and in 1919: “Conference of Commissioners on Uniformity of Legislation in Canada”. Hence the two “C”’s: one for “Conference” and the other for “Commissioners”. It wasn’t until 1974 that the English version became the “Uniform Law Conference of Canada”, one “C”. As such, both words, “Conference” and “Commission” were included in the name for some time from 1918 to 1974.

The French language version in 1974 was: Conférence sur l'uniformisation des lois au Canada. But in 1995 it was changed to the current version: Conférence pour l'harmonisation des lois au Canada. Two reasons were given for the proposed change. First, the word "harmonisation" reflects more accurately the functions of the Conference. It was suggested that the English term "uniform" is broader than its French equivalent and extended more easily to harmonization. It was further suggested that the French name of the Uniform Law Section should also be changed. Second, it has not been possible to have a uniform civil law at the national level because there is the *Civil Code* in the Province of Quebec and the uniform laws in the form adopted by the Civil

Section cannot be simply inserted into the *Civil Code*. Therefore, while we do not necessarily unify the law in Canada, the objective of the Conference is to attain harmonisation of the laws.

Notwithstanding, there are several disadvantages to changing the name to the Uniform Law Commission of Canada. First, law reform commissions in Canada have not always enjoyed the favour of governments of the day and some have been abolished altogether. Would it be wise to run the risk of having the ULCC suffer a similar fate and be perceived by governments as yet another dispensable commission that could be done away with, even after 100 years? Second, thanks to the efforts of past presidents, the ULCC was featured on the agenda of recent meetings of Federal Provincial and Territorial Ministers of Justice and Attorneys General and similar gatherings of their respective Deputy Ministers. It is argued that this is not the time to shift the focus from the substantive expertise and work of the ULCC, to a rebranding exercise implied by a name change. In addition, there would be costs associated with rebranding the name change.

Finally, it is noted that like its US counterpart the United States Uniform Law Commission, (ULC), the National Conference of Commissioners on Uniform State Laws, as described on the [ULC website](#), a change to the Uniform Law Commission of Canada would require a change in designation of delegates and jurisdictional representatives and also could add responsibility on our delegates and authority on JRs that do not presently exist. Moreover, in the US, there are different methods for appointment of Commissioners, but the most common is appointment by the Governor. US delegations are not limited to government lawyers but include lawyers, judges and legislators from right across the board. The implications of changing the name to Commission would require us to consider the nature and process of appointing Commissioners, and how the role and independence of Commissioners are to be described.

## **Option 2: Uniform Law Council of Canada**

The Online Oxford Dictionary defines the word “council” as “an advisory, deliberative, or administrative body of people formally constituted and meeting regularly.” That’s us! A council may also be described as “a meeting for consultation or advice.” This too lies within the mandate and purpose of the ULCC. The Uniform Law Council of Canada translates well in the other official language –“Conseil”. Further, the word “Council” does not have any of the negative connotations or risks attached to the word “Commission”. Finally, Council may also remove the misconceptions associated with the word “Conference” without creating in its stead, additional difficulties of its own.

There are few disadvantages associated with the use of the word “Council”. There are costs associated with rebranding.

## **Option 3: Keep the status quo**

As discussed at ULCC 2016 and during SPOC meetings, the name of the organization has been a matter of concern for some time.



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In particular, the word “Conference” may give rise to an inaccurate and misleading impression that all of the work of the ULCC occurs at the Annual Meeting, and further, that the organization is just another meeting or retreat. These impressions may contribute to difficulties in securing attendance or permission for out-of-province travel.

The current title has the added advantage of familiarity. Keeping it would also avoid an imposition on the ULCC’s limited budget and resources to rebrand the organization. Finally, the efforts of past presidents to correct the common misconceptions associated with the “Conference” have begun to bear fruit with FPT governments.

### Discussion:

Given these pros and cons, are you in favour to change the name of the Uniform Law Conference of Canada –ULCC?

If yes, are you in favour of changing the name of the Uniform Law Conference of Canada – ULCC to:

Option 1: Uniform Law Commission of Canada (ULCC)

Option 2: Uniform Law Council of Canada (ULCC)

Please send your comments on the Name Change to SPOC attention, Marie Bordeleau  
[marie.bordeleau@ulcc-chlc.ca](mailto:marie.bordeleau@ulcc-chlc.ca)

### **Members of SPOC:**

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