Policy Statements & Resolutions

Resolution 8
Regarding Accreditation of Legal Education in Common Law Countries by
the ABA Section on Legal Education and Admission to the Bar

WHEREAS, there is a growing interest in transnational legal practice by both
American lawyers and lawyers in other nations; and

WHEREAS, an increasing number of lawyers who received their legal education
and who have been admitted to practice in other nations are applying to sit for
the bar examination in states around the United States; and

WHEREAS, graduation from an ABA-accredited law school is now one of the
requirements for admission to practice in most states; and

WHEREAS, some state supreme courts are not authorized to waive this
requirement; and

WHEREAS, state supreme courts and state bar admissions committees are not
able to easily assess the quality of the legal education provided by law schools in
other nations, even those that share the common law tradition with the United
States; and

WHEREAS, the American Bar Association Section on Legal Education and
Admission to the Bar has developed expertise and an effective and reliable
procedure for assessing the quality of the legal education provided by law
schools in the United States;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges
the American Bar Association Section on Legal Education and Admission to the
Bar to consider developing and implementing a program to certify the quality of
the legal education offered by universities in other common-law countries.

Adopted as proposed by the International Agreements Committee of the
Resolution 7
Regarding Authorization for Australian Lawyers to Sit for State Bar Examinations

WHEREAS, Australia shares the common law tradition with the United States; and

WHEREAS, the growing trade and economic relations between the United States and Australia is increasing the demand for and interest in transnational legal practice between the two countries; and

WHEREAS, Individuals must complete a rigorous and prescribed course of study at a recognized Australian University as well as a period of supervised practice in order to be admitted to practice in Australia; and

WHEREAS, Australia permits American lawyers admitted to practice in a state to be eligible for admission to practice in Australia without study at an Australian University; and

WHEREAS, most state supreme courts that require graduation from an ABA-accredited law school in order to be admitted to practice have discretion to waive this requirement in appropriate cases;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges each state supreme court to consider permitting individuals who have graduated from an Australian University and have been admitted to practice in Australia, and who meet the state requirements regarding experience, character, and fitness, to sit for the bar examination and if they pass that examination, to be admitted to the practice of law in the state.

Adopted as proposed by the International Agreements Committee of the Conference of Chief Justices on February 7, 2007.
Policy Statements & Resolutions

Resolution 6
Resolution Regarding Adoption of Rules on Temporary Practice by Foreign Lawyers

WHEREAS, United States lawyers and law firms from nearly every state and territory are increasingly called upon to provide legal advice on questions of American law in other countries; and

WHEREAS, some countries are reluctant to allow United States lawyers to provide this service unless comparable recognition is provided to their lawyers throughout the United States; and

WHEREAS, most American jurisdictions have already promulgated rules regarding "temporary practice" by qualified lawyers admitted in another state and territory of the United States; and

WHEREAS, the American Bar Association has promulgated a stand-alone Model Rule for Temporary Practice by Foreign Lawyers; and

WHEREAS, several American jurisdictions have promulgated rules permitting temporary practice by qualified lawyers from other countries or have included foreign lawyer temporary practice provisions in Rule 5.5 of their Rules of Professional Conduct; and

WHEREAS, the experience of these American jurisdictions has not led to significant problems regarding the conduct of these foreign lawyers or to disciplinary proceedings; and

WHEREAS, the provision of such legal advice is increasingly important to American businesses and citizens throughout the nation; and

WHEREAS, the decision to promulgate a rule regarding temporary practice by foreign lawyers is separate and distinct from the decision whether to agree to having the rule listed as a commitment of the United States under the General Agreement on Trade in Services;

NOW, THEREFORE, BE IT RESOLVED that the Conference urges the highest court of each state or territory, that has not already done so, to consider adopting a rule permitting temporary practice by foreign lawyers.

Adopted as proposed by the CCJ Professionalism and Competence of the Bar Committee at the 31st Midyear Meeting on January 30, 2008.

Policy Statements & Resolutions

Resolution 4
Regarding Adoption of Rules on the Licensing and Practice of Foreign Legal Consultants

WHEREAS, United States lawyers and law firms from nearly every state are increasingly called upon to provide legal advice on questions of American law in other countries; and

WHEREAS, some countries are reluctant to allow United States lawyers to provide this service unless comparable recognition is provided to their lawyers throughout the United States; and

WHEREAS, 26 American Jurisdictions have already promulgated rules regarding the licensing and practice of foreign legal consultants that permit qualified lawyers from other countries to provide legal advice on their nation's law and on international law; and

WHEREAS, the experience of these American jurisdictions has been that licensing of Foreign Legal Consultants has not led to complaints regarding the conduct of these consultants or disciplinary proceedings; and

WHEREAS, the provision of such advice is increasingly important to American businesses and citizens throughout the nation; and

WHEREAS, the decision to promulgate a rule regarding the licensing and practice of Foreign Legal Consultants is separate and distinct from the decision whether to agree to having the rule listed as a commitment of the United States under the General Agreement on Trade in Services; and

WHEREAS, the American Bar Association has promulgated a Model Rule for the Licensing of Foreign Legal Consultants and will soon be considering an updated Model Rule for the Licensing and Practice of Foreign Legal Consultants;

NOW, THEREFORE, BE IT RESOLVED that the Conference urges the highest court of each state, that has not already done so, to consider adopting a rule permitting the licensing and practice of foreign legal consultants.

Adopted as proposed by the CCJ International Agreements Committee and the CCJ Professionalism and Competence of the Bar Committee at the 58th Annual Meeting on August 2, 2006.
CONFERENCE OF CHIEF JUSTICES

Resolution 2

In Support of Cooperation Among United States and European Disciplinary Bodies

WHEREAS, the provision of legal services in Europe by lawyers admitted to practice in a United States state, territory or the District of Columbia (U.S. lawyers) and the provision of legal services in the United States by lawyers whose Bar or Law Society is a full member of the Council of Bars and Law Societies of Europe (European lawyers) have become significant elements in transatlantic trade; and

WHEREAS, a system of cooperation between the competent disciplinary bodies of the home jurisdiction (the jurisdiction in which the lawyer has been admitted to the bar) and the host jurisdiction (the jurisdiction in which the lawyer renders cross-border legal services) will increase cross-border legal services and better protect the public; and

WHEREAS, the Conference of Chief Justices (the Conference) and the Council of Bars and Law Societies of Europe (CCBE) have indicated an interest in strengthening communication and cooperation among the competent lawyer disciplinary bodies of the United States and Europe through the adoption of parallel resolutions.

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices encourages the competent lawyer disciplinary body in each United States state, territory or the District of Columbia (U.S. jurisdictions) to consider:

1. Informing the competent disciplinary body of the home jurisdiction of a European lawyer (European disciplinary body) of the grounds for and nature of the sanction(s) imposed whenever it has disciplined a European lawyer for violation of a professional regulation (any provision or rule governing the professional activity of a lawyer, including a code of conduct); and

2. Informing the European disciplinary body of an alleged violation of a professional regulation by a European lawyer if he/she left the host jurisdiction before a determination whether discipline is warranted was made by the competent disciplinary body of that jurisdiction; and

3. Informing the European disciplinary body whether the host jurisdiction, in its discretion under the applicable state professional regulations, will take disciplinary action and if so, the nature of the sanction(s) that it will impose when it receives information from that European disciplinary body that:

   a. The European disciplinary body has disciplined a United States or European lawyer, who is admitted to practice in the host jurisdiction, for violation of a professional regulation; or
b. A U.S. lawyer who is admitted to practice in the host jurisdiction is alleged to have violated the professional regulations of the European country but left that country before a determination whether discipline is warranted was made by the competent European disciplinary body; and

BE IT FURTHER RESOLVED that the Conference will use its best efforts to enable the above described disciplinary cooperation, in particular by:

1. Providing to the CCBE and regularly updating a list of names and addresses of the competent disciplinary body in each U.S. jurisdiction;

2. Distributing to its members the list of the names and addresses of the competent disciplinary bodies that it receives from the CCBE; and

3. Facilitating, if called upon, communications between U.S. and European disciplinary bodies.

Adopted as proposed by the CCJ International Agreements Committee and the CCJ Professionalism and Competence of the Bar Committee at the Midyear Meeting on January 28, 2009.