

Provisional Schedule for the Preparatory Meeting
CIDIP VII – Inter-American Convention on Private International Law about
Consumer Protection

Location: School of Law of the Federal University of Rio Grande do Sul
João Pessoa Avenue, 80 – Campus Central UFRGS
90.040 Porto Alegre (RS), Brazil
Phone/Fax: 55-51-3316 37 89 – 55-51-3316 4059
Phone.: 55-51-3316 3280 – 55-51-3316 3306
(e-mail: consumidor@ufrgs.br)

PROVISIONAL SCHEDULE

Opening: Saturday, December 2nd 2006

10:00 - 10:30 Arrival and registration of delegations and authorities

10:30 - 12:00 Opening Session (Salão Nobre):

- * Address by the Hon. Brazilian Minister of Justice, Márcio Thomaz Bastos
- * Address by the Hon. Brazilian Minister of Foreign Affairs,
- * Address by the Hon. State of Rio Grande do Sul Governor,
- * Address by the Hon. OAS Representative, Jean Michel Arrighi
- * Address by the Hon. President of Federal University of Rio Grande do Sul, José

Carlos Henneman

- * Address by the Hon. Dean of UFRGS Law School, Sérgio José Porto
- * Address by the Hon. President of Brasilcon – Brazilian Institute for Consumer Protection and Policy, Brasília, Mr. Leonardo Bessa

Opening Speech – Marilena Lazzarini, President of *Consumers International*, London, President of the Brazilian Consumer Protection Associations, Brasília, and Honorary President of IDEC- Brazilian Institute for Consumer Protection, São Paulo.
(The opening ceremony will be held in Portuguese and Spanish but simultaneous translation will be provided in English)

12:00-13:20 – Lunch at the Law School or at the Hotel

13: 30 – Commencement of Activities (Meetings room) – Opening Session:

- Election of the Chairperson
- Discussion and approval of the Schedule
- Mandates for the Meeting and General Report of the Discussion Forum, by Mr. John Wilson, OAS

14: 00 – 16:40 – Discussion of the Brazilian proposal and of Canadian proposal to a Model Law on applicable law in electronic commerce – Definition of Consumer- Art. 1 - Definitions

Topics to discuss:

Subjects covered by the Convention(scope and applicability), definition of consumer (defined terms), natural persons, inclusion of legal entities (linkages with to CIDIP V), third parties enjoying consumer status (bystanders etc.), use of *lex fori* to find the most favorable definition of consumer. Subjective and objective matters of application, other definitions (provider, “professional”), necessity of defining product, service, international consumer contract or

transaction, international consumer "relation". Importance of conceptualizing contacts/connections (domicile, habitual residence etc.). Linkage with the CIDIP on Domicile. Definitions of the Canadian Model Law on Applicable Law in electronic commerce (consumer contract, ordinarily resident, plaintiff, vendor, vendor's jurisdiction).

16:40 - 17:00 – Coffee break

17:00- 19:00 - Discussion of the Brazilian proposal and of Canadian proposal to a Model Law on applicable law in electronic commerce - Applicable Law - Articles 2 e 3 – Habitual residence and choice of law

Topics for discussion:

Principal contact. Consumer's domicile (or habitual residence) as principal or secondary contact. Limited party autonomy under the consumer's most favorable law test. Limited choice to the parties, choice of law made by the judge, choice of law after litigation, consumer's choice of law or consensual choice of law.

Limited party autonomy with mandatory rules for the tourist-consumer. Choice of a law applicable to the entire contract or *dépèçage* (fragmenting), choice of a non-state law. Facilitation of comparison of laws (central authorities, OAS function, consumer's choice of law). Harmonization of applicable laws.

Distinction between contacts for passive consumer and contacts for active consumer-tourist.

Mandatory rules of the country of consumer, of the place of business or of the *lex fori*. Defining topics that are under international public order or under *lex fori* rules. Application of mandatory rules of international public policy (*ordre publique international*) of other countries. Linkage with the Inter-American Convention on General Rules of Private International Law. Importance of marketing in the application of mandatory rules.

Model Law on applicable law in electronic commerce. Contacts (habitual residence, choice of law).

19:00-19:30 – Break or Return to the Hotel

20:30 – Reception at the Law School or a traditional regional meal

Day two: Sunday, December 3rd 2006

8:30 -10:30 – Discussion of the Brazilian proposal and of Canadian proposal to a Model Law on applicable law in electronic commerce (Applicable Law – continuation from Day 1) – Exception clause – Art. 4, special contracts, Art. 6 e 7

Topics for discussion: exception clause. Complex consumer contracts. Special contacts (for involving real estate rights or for being performed simultaneously in several countries). *Kaskaten Norm* (Kegel, RCADI 1974). Cumulative application of laws and *dépèçage* (fragmenting). Harmonization of applicable laws.

Importance marketing in the application of mandatory rules. Special rules for electronic commerce. Distinction between passive consumer and active consumer-tourist. Model Law on applicable law in electronic commerce.

10:30-11:00 – Coffee Break

11:00 – 13:00 – Discussion of the Brazilian proposal Model Law on applicable law in electronic commerce (final discussion)- Excluded issues (field of application) - Art. 5, Preamble and Final Provisions usual to CIDIPs

Topics for discussion: Excluded issues. Linkage with other CIDIPs. Preamble. Final Provisions usual to CIDIPs. Model Law on applicable law in electronic commerce and linkage with other Model Laws on electronic commerce.

13:00 – 14:00 – Recess (Lunch at the Law School)

14:00 -17:00 – Discussion of Canadian and USA Proposals on Jurisdiction, Dispute Resolution and Redress

Topics for discussion: Model Law or Convention on jurisdiction for consumer contracts. Definitions (consumer contract, consumer contract proceedings, ordinarily resident, plaintiff, vendor, vendor's jurisdiction). Contacts (*real and substantial contacts*). Written choice of *forum*. Importance of Marketing. Exclusion of the tourist-consumer (4.3). *Forum non conveniens* in cases involving consumers (*discretion about the exercise of jurisdiction*). Limits of the choice of jurisdiction clause in contracts of adhesion and before litigation. Difficulties in access. Marketing induction. Conceptual Model Law – Draft Proposal for a Model Inter-American Law on Availability of Consumer Dispute Resolution and Redress for consumers. Objective (scope and applicability). Facilitation for consumer claims only. Complementary application with existing laws. Definitions (consumer, business-to-consumer transactions, dispute resolution, alternative dispute resolution, redress, economic harm, consumer protection enforcement authority, disadvantaged or vulnerable consumers - special needs).

17:00 -17:20 – Coffee Break

17:20 – 19:00 – Discussion of Canadian and USA Proposals on Jurisdiction, Dispute Resolution and Redress

Topics for discussion: Dispute resolution services (including online dispute resolution, no disproportionate costs) and the monetary consumer redress system (Redress for Consumers Acting Individually, Collective And/or Representational Dispute Resolution and Redress for Common Injuries to Consumers, Governmental Dispute Resolution and Redress for Economic Harm to Consumers).

19:00-19:30 – Break or Return to the Hotel

20:30 – Reception at the Law School or a typical regional dinner

Day three: Monday, December 4th 2006

9:00 – 9:30- Conclusion of discussions (if necessary)

9:30 - 11:00 – Final remarks and voting

Topics: texts and formatting (Conventions, Model Laws, themes to be included, themes that require further discussion, themes for CIDIP VIII)

11:00-11:20 – Coffee Break

11:20-12:30 – Adoption of the CIDIP VII Recommendations and Preparatory Documents on consumer protection. Election of *Rapporteur(s)*. Next steps.

12:30 – 13:00 –Closing Ceremony(Brazilian Ministry of Justice, Mr. John Wilson, OAS)
(Return to Hotel or transfer to the airport)