

## QUESTIONNAIRE

### *for Enforcement of Money Judgments*

[Ed. Note: Contributors from countries where the law as to enforcement of foreign money judgments may vary between political subdivisions (e.g., states, provinces, cantons, etc.) may respond to the questionnaire by using the law of any representative subdivision. A “foreign money judgment” means any judgment of a foreign country granting or denying recovery of a sum of money, excluding a judgment for taxes or fines, a judgment in family matters (i.e., alimony, inheritance, and child support), and an arbitration award.].

#### **I. PRESENT ATTITUDE TOWARD ENFORCEMENT OF FOREIGN MONEY JUDGMENTS**

- A. Describe the receptiveness of your government (including courts) toward enforcement of foreign money judgments.
- B. Briefly describe recent illustrative attempts, whether successful or unsuccessful, to enforce a foreign money judgment in your country, particularly with regard to enforcement of any judgments from United States courts.
- C. Describe any proposed legislation or other governmental action in your country that could significantly affect the enforcement of foreign money judgments.

#### **II. PROCEDURE TO ENFORCE A FOREIGN MONEY JUDGMENT**

- A. General Summary of Procedure
  - 1. Briefly summarize the procedure and expected length of time necessary to enforce a foreign money judgment if a treaty provides for enforcement of judgments from the country of origin.
  - 2. Briefly summarize the procedure and expected length of time necessary to enforce a foreign money judgment if no treaty provides for enforcement of judgments from the country of origin.

**B. Detailed Discussion of Procedure**

1. Indicate the courts in your country that are competent (i.e., have jurisdiction) to grant enforcement of a judgment.
2. Describe any requirements regarding translation and authentication of the documents evidencing the original judgment.
3. Indicate whether jurisdiction over the judgment debtor must be obtained by your courts in the enforcement action.
4. If the original judgment is in a foreign currency, describe whether the judgment need be converted into local currency. [Ed. Note: Indicate how the conversion should be calculated (e.g., exchange rate when judgment awarded, when enforced, or at another time?)]
5. Indicate whether the judgment creditor can receive interest on the original judgment amount regardless of whether the original judgment amount included interest.
6. Indicate whether the successful judgment creditor is entitled to reimbursement of its attorneys fees or court costs incurred in bringing the enforcement proceeding.
7. Describe the conditions under which the losing party may appeal your court's decision whether or not to enforce a judgment.
8. Describe any other procedures which could seriously affect the enforcement action.

**III. REQUIREMENTS FOR ENFORCEMENT OF A FOREIGN MONEY JUDGMENT****A. General Summary of Requirements**

1. Assuming the proper procedure is followed as set out in Section II, briefly summarize the requirements which must be met to enforce a foreign money judgment if a treaty provides for enforcement of judgments from the country of origin.
2. Assuming the proper procedure is followed as set out in Section II, briefly summarize the requirements which must be met to enforce a foreign money judgment if no treaty provides for enforcement of judgments from the country of origin.

**B. Detailed Discussion of Requirements**

1. Describe any requirements of your country with regard to the jurisdiction (i.e., competence) of the court of origin over the parties and subject matter of the original action. [Ed. Note: Indicate whether the jurisdiction of the court of origin must have been based on a ground which can be exercised by a court of your country. Can the defendant submit to jurisdiction or waive rights to protest jurisdiction?]
2. Describe any requirements of your country with regard to notice to the defendant in the original action. [Ed. Note: Must the court of origin have followed your country's service of process rules? Could service have been by mail or publication?]
3. Describe any requirements of your country with regard to finality and non-appealability of the court of origin's judgment.
4. Describe the position of your country with regard to refusal to enforce a judgment on grounds of public policy, particularly with respect to whether your courts will refuse to enforce a judgment if the original claim could not have been brought under the laws of your country.
5. Describe any requirements of your country with regard to showing reciprocity between the court of origin and your country.
6. Indicate whether the courts of your country will review the merits of the case before granting enforcement.
7. Describe whether the courts of your country will examine if the court of origin applied the same rules of law which a court in your country would have followed had it heard the case originally (i.e., the proper choice of law).
8. Describe whether enforcement of a judgment will be denied if the underlying cause of action is barred under your country's statute of limitations.
9. Describe any other requirements or defenses which could prevent the enforcement of a judgment. [Ed. Note: For example: fraud in the original action; a prior inconsistent judgment; the original court was an inconvenient forum; etc.]

