

PRESENTATION

During the fall of 2001, the OAS Secretariat for Legal Affairs undertook a new initiative designed to provide the OAS member states with legal information on transnational business transactions, bijuralism (i.e. the co-existence of common law and civil law regimes in the Americas), and informal processes of legal harmonization. Our objective was to assess the opportunities offered by legal harmonization and standardization for certain business transactions, and whether they would lead to the development of new instruments facilitating cross-border transactions and investment within the Hemisphere.

The Canadian International Development Agency (CIDA) agreed to participate by providing the OAS Secretariat for Legal Affairs with a financial contribution allowing it to further pursue this initiative. CIDA has been extremely helpful in providing the necessary resources to develop this project and we wish to acknowledge their precious participation.

The main purpose of our efforts was to develop a publication providing information and recommendations on the opportunities for further legal convergence in certain commercial topics, such as cross-border financing, foreign investment and energy-related transactions. We also wanted to examine practical differences between civil law and common law regimes on issues such as private equity and corporate remedies for foreign shareholders, in addition to comparing the European legal integration model with our current Inter-American process. Basically, we wanted to develop a publication that would provide up-to-date and high quality legal information dealing with those issues in order to develop a “blueprint” of what should be some of the issues to examine in the future.

We were particularly interested in obtaining the advice of experts not only from academia but also from the private sector, since we were seeking to address the concrete legal issues confronting practitioners dealing with cross-border transactions between parties located in jurisdictions governed by different legal systems. And we have been extremely pleased by the wide response and interest that this initiative received, both from esteemed Professors and private practitioners, and wish to thank all our participating experts for their great contribution.

This publication is the result of this initiative and we hope that its content will be useful for all OAS entities and member states interested in the future of legal harmonization for business transactions at the Inter-American level. Ultimately, we are confident that this publication will provide a solid basis for further legal initiatives aiming to foster economic development in the Americas.