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UNIVERSITY
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**The Canada-United States Law Institute
Executive Committee of the Advisory Board
Strategy Session
June 24, 2010
DLA Piper (US) LLP
Washington, DC**

MINUTES OF MEETING

In attendance:

Executive Committee Members

Hon. James J. Blanchard (Co-Chair)
Partner, Co-Chair, Government Affairs
Practice Group
DLA Piper LLP (US)
Washington, D.C.

R. Richard Newcomb
Chair, International Trade Practice
Group
DLA Piper LLP (US)
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Chair)
Counsel
Fasken Martineau
Toronto, Ontario

J. Michael Robinson, Q.C.
Counsel
Fasken Martineau DuMoulin, LLP
Toronto, ON
Adjunct Faculty Member,
Faculty of Law
The University of Western Ontario
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Donald B. Cameron, Jr.
Practice Group Leader
International Trade
Troutman Sanders LLP
Washington, D.C.

Selma M. Lussenburg
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National Directors

Chios C. Carmody (Ex Officio)
Canadian Director
Canada-United States Law Institute
Professor
Faculty of Law, The University of
Western Ontario
London, ON

Michael Scharf (Ex Officio)
United States Director
Canada-United States Law Institute
John Deaver Drinko-Baker & Hostetler
Professor of Law
Director of the Frederick K. Cox
International Law Center
Director of the Henry T. King, Jr. War
Crimes Research Office
School of Law
Case Western Reserve University
Cleveland, OH

Invited Guest(s)

Daniel D. Ujcz
Managing Director
Canada-United States Law Institute
& Visiting Assistant Professor
School of Law
Case Western Reserve University
Cleveland, OH

Unavailable:

Richard O. Cunningham
Senior International Trade
Partner
Steptoe & Johnson, LLP
Washington, D.C.

Lawrence L. Herman
Counsel
Cassels Brock & Blackwell LLP
Toronto, ON

James P. McIlroy
Counsel on Public Policy
McIlroy & McIlroy, Inc.
Toronto, ON

Opening and Introduction

The meeting commenced at 9:26 am with welcoming remarks by co-Chair & host, James Blanchard. Co-Chair Blanchard advised that CUSLI possessed tremendous assets such as having a home in two prestigious universities, support from the respective governments, an active Advisory Board of public and private sectors officials, and longevity in that it would be celebrating its 35 year anniversary in 2010. Co-Chair Blanchard suggested that CUSLI utilize 2010-11 to celebrate the 35 year anniversary. Co-Chair, James Peterson, expressed similar comments in noting that CUSLI -- unlike other Canada-US organizations -- was not "fly by night." He agreed that CUSLI should champion its 35 years of success. Co-Chair Blanchard emphasized that CUSLI should envision itself as a "big tent" for a number of law firms, companies, scholars, think-tanks and other NGOs engaged in Canada-US issues. He cited other Canada-US organizations that were perceived as extensions of one or two law firms and advised that CUSLI should avoid that practice. All attendees agreed that CUSLI should foster and seek support from as many entities as possible.

Co-Chairs Blanchard and Peterson enquired as to the greatest needs/challenges confronting CUSLI. Managing Director, Dan Ujcz, advised that “resources” were the greatest challenge -- particularly, human/staffing. Ujcz advised that all organizations were confronting the need to secure financial resources in difficult economic times. He advised that the Institute had engaged in a decade long effort to establish a three-tiered funding structure: (1) an increased annual fund extending beyond the contacts held by, and personality of, Henry King; (2) multi-year grants/commitments for longstanding programs such as the annual conference and Niagara International Moot Court Competition; and (3) a capital campaign to permanently endow the Institute. He advised that the Institute had made significant steps forward in regard to the annual fund as witnessed by general increases in membership contributions from 2004 to 2008, including securing new members such as Research in Motion, Canadian Pacific, Bombardier, Towers Watson, Blakes, and Gowlings. Of greater significance, Ujcz advised that these new members joined CUSLI for the value proposition, as opposed to linkages with any one personality. Ujcz indicated that the Institute’s efforts toward multiyear sponsorships had not yielded fruit—however, the Institute had utilized the past several years to build capacities in these programs such as the Toronto-Washington DC rotation for Niagara International Moot Court Competition and the enhancing of the annual conference. He opined that these programs were now in a position to secure sponsorships. Ujcz advised that Case Western Reserve University School of Law and The University of Western Ontario Faculty of Law had launched capital campaigns to support the Institute, styled as “The Henry T. King International Law Studies Fund” and “The Canada-United States Institute”, respectively. He also advised that the strategic investments made over the past decade in areas such as “re-branding” the Institute, developing marketing materials, website creation, and other outreach strategies rendered the Institute well-suited to secure large-scale support. Ujcz expressed the view that “CUSLI invested resources when times were good, which allowed [it] to survive in the economic collapse, unlike other programs at places such as Bowling Green State University, Michigan State University, and others. We are ready to go.”

Notwithstanding the successes relating to financial resources, Ujcz emphasized that the greatest challenge confronting the Institute was the limited human resource investments made in contrast to the ever-broadening scope of the program. He observed that no individual held full-time responsibility for operating the Institute—indeed, the Institute drew on a percentage of faculty and advisory board members’ time. This human resource challenge resulted in a diminished annual fund in 2009 following Henry King’s illness (no individual was making the necessary follow-up calls), and the specific recent constructive criticisms of CUSLI such as a lack of follow-up on activities, advance notice of events, and overall efficient operation of the Institute. He noted that while the need for greater staffing resources was a long-term goal for the Institute, in the current context “all organizations have to do more with less.” Consequently, Ujcz opined that a long-term strategic objective for CUSLI should be to secure the necessary financial resources and personnel to serve in a full-time capacity. Nevertheless, he expressed strong confidence for the short-term (FY2010–11), as a result of general support from the deans, engaged national directors (including the newly appointed Michael Scharf), administrative teams that had a “year of experience under their belt”,

and -- of greatest significance – actively engaged co-Chairs, Executive Committee and Advisory Board members.

Background Briefing

Ujczko then provided an extensive briefing regarding CUSLI's structure and governance, programs, and development/financing. The starting point for this discussion was the late 1990s, when several advisory board members began to discuss the future of the Institute beyond Henry King. These informal discussions continued until April 2003 when the Institute launched a formal strategic review styled "CUSLI-2004." Ujczko advised that CUSLI-2004 started as a program-driven initiative and strategies to secure the necessary funds for those programs. However, at the urging of several large institutional donors and the Canadian government, the initiative examined CUSLI's structure and governance model. The Institute ultimately launched a five-year plan (2005-2010) in order to implement the strategic review's recommendations.

Ujczko advised that the strategic review revealed that the Institute experienced four "Eras": (1) the Founding or "Sidney Picker" Era (1976-1981); (2) the Dark Ages (1981-1983); (3) The Henry King Era (1983-2001); and (4) the Transition Era (2001-2010). Ujczko advised as a point of history that the Institute was founded in 1976 by Case Western Reserve School of Law Professor Sidney Picker. Picker established three core principles for the Institute. Firstly, the Institute was a "law" institute. Ujczko noted that there had been discussions over the years regarding changing the name of the Institute away from "law" in order to foster support from corporations, government officials and foundational donors. However, the strategic review revealed that the Institute's focus on law provided three advantages – specifically, "law" afforded the Institute with the opportunity to focus on the myriad of relationships between Canada and the United States such as trade, energy, environment, security, etc.; the focus on "law" likewise provided CUSLI with an exclusive niche, unlike the thousands of Canada-US business organizations; and "law" served as a "spoke and hub" model whereby CUSLI reached into other disciplines and organizations. With regard to the latter, Ujczko cited The University of Western Ontario's new initiative for a "Canada United States Institute" emanating from the success of the law school; the Institute's work at Case Western Reserve University in building linkages with the school of engineering/energy and undergraduate programs; and the recent Buy American example where organizations such as the Canadian Manufacturers and Exporters, the National Association of Manufacturers, and various chambers of commerce relied on CUSLI to provide legal advice/guidance on the issue(s).

Ujczko indicated that the second core principle was that the Institute rested within two highly regarded academic institutions. Ujczko advised that CUSLI extensively examined during the strategic review the governance models of other Canada-US based organizations, other academic "centers" at Duke University, Cal-Berkeley, the University of British Columbia, and the University of Ottawa, as well as other nonprofit organizations. He noted that the Institute's Advisory Board had proposed a range of governance models ranging from establishing the Institute as a stand-alone entity, a

model joint venture with affiliation agreements with two universities, to a fully integrated scholarly center within two academic institutions. Ultimately, the Institute determined that its traditional model of having homes within two academic institutions provided an optimal structure and governance model. Three reasons supported this view – specifically, stability and reputation, an inherently bi-lateral approach to the issues, and a non-partisan examination of the Canada-US relationship. With regard to the latter, Ujczko cited the Institute’s 2007 tax event in Vancouver where the IRS and Revenue Canada officials were able to participate as the Institute was deemed an academic institution. Consequently, Ujczko suggested that the Institute’s status as an academic institution provided it with the ability to bring together multiple parties (e.g., government officials, corporate leaders, practitioners, scholars, etc.) consistent with various ethics and conflict rules.

Ujczko advised that CUSLI’s third core principle was having a multidisciplinary focus. Specifically, he noted that virtually all of the Institute’s programs featured exceptional faculty and students, government officials (federal/state/provincial/local), industry leaders, legal practitioners, nongovernmental organizations, and the media. This broad-based approach provided a comprehensive view of the world’s most important bilateral relationship. Ujczko remarked that the Institute’s most successful programming arose when each of these constituencies were represented on panels and, or, the audience.

Ujczko then turned to the specifics of the “Sidney Picker” Era. He noted that the Institute was jointly owned by the two law schools and that faculties had adopted the curriculum of the other law school. He emphasized that there is no Canada-United States Law Institute without Case Western Reserve University School of Law and The University of Western Ontario Faculty of Law. As a result, it was envisioned that the deans of the two law schools would be the “first among equals”, but that full-time, tenure-track professors would serve as national directors. Ujczko remarked that Prof. Chi Carmody and the recently appointed Prof. Michael Scharf fit the traditional model of the national directors. Ujczko noted that the Institute possessed an “Advisory Committee” from its earliest days that included public and private sector actors such as Henry King (then General Counsel of TRW, Inc.). He also noted that the Institute discovered early on the need for a managing director/program manager to handle the “nuts and bolts” of the Institute. This first program director was a former student and now Advisory Board member, Rosemary McCarney. This early model ensured that the national directors would target their energies toward recruiting faculty and students for the Institute and securing overall support from the founding institutions, while the program coordinator worked directly with the Advisory Committee to implement the Institute’s programs. Ujczko went on to advise that the Institute’s early programs were more academic in nature with a focus on curriculum, student exchanges of 6 to 12 students per semester, faculty exchanges (mini-visits and full semester exchanges), the publishing of the *Canada United States Law Journal*, administering the Niagara International Moot Court Competition, and sponsoring conferences and events held in London, Cleveland, Toronto, and Washington DC. He noted that the high point of this early period was a CUSLI-sponsored 1982 conference marking the first time that sitting Supreme Court of Canada and United States Supreme Court Justices sat on the same dais. Ujczko noted

that there were more than 2,000 CUSLI alumni of the exchanges, journal participation, and the Niagara Moot who could be tapped to support the organization. Closing out the early stages of the Institute, Ujczko advised that the Institute raised approximately \$250,000 in 1976 (approximately \$1 million in 2010) in seed funding largely from the governments of Canada and the United States, foundations such as Gund, Cleveland, Richard Ivey, and Donner, and Western Law alums. Ujczko noted that, paradoxically, the US Embassy in Ottawa funded the Canadian component of CUSLI, and DFAIT funded the US component – a funding model that continued through the present.

As to the “Dark Ages”, Ujczko advised that the recession of the 1980s presented financial challenges for the Institute. The key factor was that the initial seed funding was not placed into a permanent endowment—consequently, the respective universities began utilizing Institute funding for other programming. Additionally, The University of Western Ontario was hit hard by the recession and began to gradually withdraw from the Institute. Meanwhile, the Institute’s initial funding was depleted, and the Institute began focusing on “scholarly initiatives to support the Institute.” This led the Institute to financial chaos and Case Western Reserve School of Law threatened closure of CUSLI in 1983.

A new era emerged with the arrival of Henry King. King quickly canvassed his colleagues in the respective governments and private sector and determined that there was a need for a forum to discuss the “next big idea” in the Canada-US relationship (perhaps it was of no coincidence that President Reagan and Prime Minister Mulroney were discussing the Canada US Free Trade agreement). King received a three-year conference grant from the Donner Foundation of approximately \$25,000 annually to host the event. As a result, CUSLI launched the annual conference that emphasized three areas: (1) a forward-looking subject matter; (2) multidisciplinary panels and audience; and (3) a retreat/reunion type atmosphere to build professional and personal linkages between practitioners in Canada and the US. King transformed the Canada United States Law Journal from a scholarly journal to an edited transcript of the conference proceedings. King continued the Niagara International Moot Court with 10 to 12 law schools participating per year. Finally, there were 2 to 4 students exchanging between the two law schools. In terms of structure and governance, King operated the Institute, designed all of the Institute’s programs, and implemented the same. King raised more than \$100,000 annually that went back to the conference and other programs. The overhead expenses for the Institute during this time were 50% of an administrative assistant’s salary (approximately \$20,000 annually) and a 14% indirect cost expense paid to Case Western Reserve University. King ultimately raised nearly \$1.3 million during his tenure, and by 2001, the Institute held \$80,000 in surplus funds.

While the Institute flourished under King, there emerged 3 creeping challenges. Firstly, King’s governance model was a relationship between the US Director (King) and the Advisory Board. The faculties and students were not engaged thereby resulting in diminished support from the respective administrations. Secondly, the Institute lacked a Canadian focus arising from the gradual withdrawal of The University of Western Ontario. Consequently, the Institute lost its core principle of being inherently bilateral.

Finally, King developed strong personal relationships with Advisory Board members/contributors – however, Henry was entering his 80s and there was not an identified successor. Ujczko cited Executive Committee member Jim McIlroy's observation that the challenge then facing the Institute was whether "we pass the successful organization off to a son or daughter, or do we take it public." The Advisory Board ultimately chose the latter and discussions were supported by three developments. Firstly, The University of Western Ontario hired Dean Ian Holloway who immediately saw the value add of the Canada United States Law Institute and appointed Chi Carmody as its Canadian Director. Ujczko emphasized that Western Law "started from scratch" as Dean Holloway did not request any direct funds from the Institute. Secondly, Case Western Reserve School of Law began to focus on its academic centers – particularly, its international Law program -- and the arrival of Prof. Michael Scharf. Ujczko advised that Scharf developed a "Case Global" program that leveraged the assets of the law school's Cox Center (public international law), CUSLI (private international law), the Institute for Global Security Law and Policy (security), and LLM programs. This resulted in Case Western Reserve School of Law having one of the nation's top ranked international law programs. Lastly, Ujczko advised that the Advisory Board – and specifically the members of the Executive Committee – were heavily engaged and held more than 32 conference calls and meetings during the CUSLI 2004 initiative.

US Director Scharf elaborated on Case Western Reserve University's contribution to the Institute. Scharf noted that CUSLI recently had briefed Interim Dean Rawson for nearly 2 hours regarding Institute's operations and there was strong support from the administration. This support was demonstrated by eliminating CUSLI's 14% indirect cost expense (retroactive to FY 09), as well as the allocation of more administrative resources. Scharf advised that Institute now had three administrative staff members that would improve the human resource problems noted earlier. Scharf indicated that Case Western Reserve University provided approximately \$10,000 in funding for the *Canada-US Law Journal*; provided approximately \$5,000 to CUSLI's research fellows and interns; provided Ujczko with a salary; and allocated a portion of Scharf's time to the Institute. Additionally, he indicated that the law school directly contributed funding for the publication of the "Case Global" materials that would be circulated to more than 5000 individuals and scholars throughout the world. Scharf advised that he had revised the materials to further promote CUSLI. Scharf indicated that he would recommend to the Interim Dean that CUSLI receive an annual stipend (approximately \$10,000) which every academic center at the law school received. Overall Scharf opined that Case Western Reserve School of Law was fully supportive CUSLI.

Similarly, Chi Carmody cited The University of Western Ontario Faculty of Law's support for the Institute. He advised that Western Law established the Distinguished Lecture in 2007 and provided \$2,500 annually over four years. He indicated that Western Law provided the website services for CUSLI and an annual contribution of \$1,500.00 to support website services. Carmody noted that Western Law registered at least three members of administration and faculty for CUSLI's annual conference and provided the associated expenses. He emphasized that Western Law supports CUSLI as evidenced

by the appointment of Prof. Margaret Martin as Associate Canadian Director and the provision of administrative staff to support CUSLI's Western Law-based operations.

Ujczko remarked that there was a "sea change" regarding the support from the respective universities. He cited the Feb. 2010 meeting with the President of The University of Western Ontario, and the support provided by the respective deans. Ujczko emphasized that it was important to utilize the 2010-11 year as Deans Holloway and Rawson were scheduled for departure at the end of the 2010-11 academic year (June 2011). Ujczko noted that the other factors supporting the importance of 2010-11 were the more than \$500,000 in strategic investments to support the expansion of CUSLI's programs, with Case Western Reserve School of Law holding approximately \$250,000.00 in debt for CUSLI. He advised Case Western Reserve had requested a repayment of \$250,000 over five years (\$50,000 annually) starting in 2009-2010 academic year. Ujczko again indicated that CUSLI had made the initial payment during the present FY, but it was important for FY 2010-11 budgeting to include this \$50,000.00 repayment. Executive Committee Member Michael Robinson enquired as to the whether The University of Western Ontario had recognized this debt. Carmody advised that the general view of Dean Holloway was that these funds were used to support Case Western Reserve's part of the CUSLI-program and that Western Law funds would not be used for repayment of the debt. Ujczko advised that the \$250,000 included programs at Case Western Reserve and CUSLI generally, and per the structure and governance model approved by the Executive Committee, this debt was jointly held by the two law schools. However, he emphasized that all funds being used for repayment on the debt were from CUSLI's general fund (i.e., annual dues, registration fees, grants, etc.) and that no funding provided from Western Law was used to settle the debt. Ujczko advised that he was preparing a 2005-2010 report for the Executive Committee that would detail the expenditures.

Ujczko then discussed the transition era. He advised that there was broad support from the law schools and Advisory Board for the Institute's adoption of eight programs that, in hindsight, attempted to link the Sidney Picker and Henry King eras. Specifically, the Institute would continue to host the annual conference, administer the Niagara Moot, continue the student and faculty exchanges, expand The Canada-United States Law Journal to include scholarly articles and student research, establish a Canada-US curriculum at each university, create intern/externship programs, and host periodic conferences on discrete topics in locations throughout Canada and the US. In order to implement these programs, the Institute launched in 2005 a "Triple E strategy" that "E"nhanced CUSLI's traditional programs; "E"stablished new programs; and "E"nvisioned an Institute for the 21st century.

Ujczko indicated that CUSLI enhanced the annual conference and Niagara Moot through a series of measures. Ujczko advised that the annual conference was losing approximately \$15,000.00 per year prior to 2005, attendance was slipping, and that the speakers were beginning to be recycled every year. Consequently, CUSLI adopted a practice whereby members of the Advisory Board were consulted as to the conference topic, speakers, etc. This resulted in the elimination of the Sunday morning

proceedings, 30% attendance by “new” speakers and attendees, as well as introduced the annual conference to other venues in Cleveland (e.g., the Great Lakes Science Center, The Park Lane Villa and the Crawford Auto Museum). Ujczko noted that in the late 1990s/early 2000s the conference topics became too discrete – particularly, in areas of international trade – thereby limiting the audience. CUSLI returned to broader themes in 2005-2010 such as innovation, entrepreneurship, the border, and the future of N.A. trade. Ujczko advised that the periodic conferences such as the N.A. approaches to China offered more targeted opportunities. The enhancements produced more successful programs, but revealed several challenges. For example, the period of consultation had strong results in bringing in new contacts, but added significant delay in selecting the conference topic. Additionally, the broad themes for the conference appealed to more attendees and secured new members for CUSLI, but in a few cases led to disjointed panels. Ujczko recommended that CUSLI fully implement the Executive Committee’s November 2009 decision to establish a “Annual Conference Committee” of the Advisory Board to select the conference topic ASAP, secure keynote speakers by mid-Fall, and have the conference finalized by the end of the calendar year to allow for marketing.

Ujczko explained that the Niagara International Moot Court enhancements occurred more slowly than initially planned. The issues confronting the moot were difficulty in finding a school each year that would host the event, secure judges, and provide the approximately \$20,000 needed for hosting the opening reception, awards dinner, and judge travel. Ujczko noted that even where a host school was secured, there was a great deal of inconsistency in the moot depending on the school’s level of administrative commitment to organizing the event. As a result, CUSLI held the moot at Case Western Reserve School of Law in 2006 and 2007 for the purpose of examination. The Institute’s staff identified multiple challenges with the host school model such as limited space in law school (10 classrooms generally are unavailable), specific requests from teams to host the event in more ideal locations to increase internal recruitment, a regular rotation between Canada and the US, and repeat venues/locations to assist with planning and budgets. With this in mind, the Executive Committee approved in May 2007 the moot’s rotation between Washington DC and Toronto. Ujczko advised that the 2008 experience in Washington DC exceeded the budget by \$20,000 largely tied to hotel attrition and first-time experiences in hosting the event off-site. Nevertheless, Ujczko advised that there was strong potential in continuing the rotation. The following year, Executive Committee members Larry Herman and Selma Lussenburg suggested that CUSLI host the event within 5-6 Toronto law firms to reduce costs. CUSLI proceeded in this manner and Ujczko advised that the post-event participant survey revealed a 100% favorability rating for the event. The Institute followed the law firm model in 2010, again receiving a 100% general favorability rating. Ujczko recommended that the Executive Committee approve the practice of the moot rotating between Washington, DC and Toronto.

Programs - Niagara International Moot Court Competition

The discussion turned to the Niagara International Moot Court Competition where co-Chair Peterson enquired as to the amount of funding required to host the moot. Ujczko responded that CUSLI required at least \$20,000 annually, in addition to the provision of office space by 6 to 8 law firms. Co-Chair Blanchard advised that the provision of office space would be relatively straightforward in Washington DC either by hosting it at DLA Piper, Steptoe & Johnson, or a number of other firms. He noted that the efforts would require individuals reaching out to colleagues at other firms. Co-Chair Peterson and Robinson advised that they would inquire as to whether Faskens could host the event and provide approximately \$5000 in funds for 2011. Citing the Jessup Moot Court and sponsorship by White & Case, Scharf enquired as to whether one particular law firm would be able to sponsor the Niagara at approximately \$20-\$25,000 annually. Executive Committee member Rick Newcomb responded that this was contrary to the principle established earlier that the Institute serve as a “big tent” rather than the arm of one particular law firm. All parties agreed that the best strategy would be to solicit contributions from several law firms on annual or bi-annual basis at approximately \$5-\$10,000 per entity. Ujczko advised that his experience in working with other organizations, and in consultation with development experts, revealed that the best approach would be to include Niagara sponsorship as part of the annual dues/membership fee. Specifically, he advised that the membership criteria would include a \$10,000 fee that would include \$2500 for the membership dues with remaining \$7500 going to the Moot Court. Lussenburg enquired as to whether it may be advantageous provide a discount on the membership fee if an individual/entity agrees to support the moot. For example, she advised that CUSLI could charge \$6500 annually, with \$1500 as the annual membership fee (instead of the current \$2,500) and \$5000 being charged as sponsorship of the moot. Co-chair Peterson and Scharf agreed that this would be the best approach. Newcomb countered that CUSLI should start requesting larger amounts. He noted that when other organizations approach DLA Piper “they are unashamed as to the amount.” Executive Committee member Don Cameron noted that not all firms would be in that position. The parties agreed to table (US meaning) the issue until a discussion of financials later that afternoon. Scharf enquired as to whether it made sense to host the event annually in Washington, DC. Lussenburg responded that given the bilateral nature of the event, CUSLI should continue the Washington, DC – Toronto rotation. Ujczko agreed, noting that the participating teams desired a rotation between Canada and the US. Robinson enquired as to the status of recruitment. Ujczko advised that there was renewed interest in the US such as from the University of Alabama and Chicago-based law schools. Ujczko noted that CUSLI was still trying to recruit the University of Toronto and Osgoode Hall, and had favorable discussions with the University of British Columbia, University of Alberta, and Dalhousie. Questions were raised as to McGill University’s participation. Ujczko noted that it may be difficult to secure McGill for because of the French language requirement. He also noted that while he initially hoped for nearly 50 teams, traditional team members enjoy participating in the moot because of its small size and short duration. With that in mind, Ujczko suggested a target of 25 teams. The committee concluded the discussion of the Niagara international Moot Court by determining that they would continue a rotation between Toronto-Washington, DC. The committee agreed to canvass the Advisory Board for members that would participate in a Niagara International Moot Court

(sub)Committee of the Advisory Board. Co-Chair Blanchard suggested that CUSLI secure two-year sponsors. For example, the Washington, DC based firm sponsor the 2011 event in Toronto to gain exposure there, and vice-versa with the Toronto based firms. All parties agreed.

Programs – Annual Conference

The discussion turned to the annual conference. Co-Chair Blanchard again raised the issue of the 35th anniversary noting that this was a critical year for the annual conference. Co-Chair Blanchard noted that it was important that the Institute improve the marketing and communications as well as gain greater attendance at the conference. Co-Chair Peterson agreed noting that conference was strong from a substantive perspective, but attendance was weak. Lussenburg noted that it was important to get materials out early and to develop definite timelines. Lussenburg advised that CUSLI needed to bring in new speakers, and develop rules for the session chairs. She also advised that the conference topics had become disjointed and that a prevailing theme was needed. Ujczko agreed with all sentiments and suggested that the timelines be as follows: (1) select conference topics by close of August; (2) keynote speakers selected by September and save the date issued; (3) the full conference program “locked” by the close of the calendar year; and (4) full marketing and communication throughout January until April. Scharf explained that the “Case Global” materials would be distributed on August 1 and that CUSLI would need to have the topic by that date. All parties agreed.

Scharf advised that CUSLI should create an Annual Conference Committee of the Advisory Board to assist in designing and implementing the conference. Robinson advised that Advisory Board member David Crane had offered to participate in this manner and would serve as a Canadian co-chair. Co-chair Peterson concurred, as did the committee. Ujczko suggested that Chris Sands – who was assisting CUSLI’s regulatory cooperation efforts – would serve as a US co-chair. Co-Chair Blanchard expressed support for this measure. All parties agreed. Ujczko was charged with contacting the presumptive co-Chairs. Lussenburg enquired as to the process for designing the committee. Ujczko suggested that the Executive Committee develop several topics for the conference and have Crane & Sands consider the topics in late July, followed by a conference call with the Executive Committee to approve the topic by August 1. Ujczko then would distribute an omnibus set of CUSLI materials to the Advisory Board seeking members of the annual conference committee. All parties concurred in this approach.

The Executive Committee then engaged in an extensive discussion as to the conference topic. Co-Chair Peterson raised the issue of climate change as it was a key issue in the Canada-US relationship as well as the international community. Co-Chair Blanchard agreed and emphasized that it was important for CUSLI to find a niche in this discussion such as expanding on the climate change/international trade conference that CUSLI held in March 2010. Co-Chair Peterson also suggested that Cameron had raised an interesting issue regarding the Canada-US approaches to the changing world.

The conference would address the rise of Asia and Canada-US response, the impact on North American economy, trade policy, etc. Robinson advised that climate change could be a part of that conference. Lussenburg raised a third issue admittedly as a “shot in the dark” dealing with health care. She cited Cleveland’s strength in this area. Scharf noted potential linkages with other programs at Case Western Reserve University. Cameron and Newcomb concurred that this may be an interesting idea. Robinson discussed pharmaceuticals and other legal issues to be considered part of conference. The Executive Committee discussed the three proposed topics and ultimately decided to refer the matter to Sands and Crane for consideration.

Co-Chair Blanchard enquired as to whether CUSLI should continue hosting the conference on Saturday. Lussenburg concurred citing that it was difficult for the business community, as well as government officials, to attend Saturday events. Ujczko advised that the proposed dates for the conference were Thursday, April 14-Saturday, April 16 and that the law school and Glidden House were holding those dates. Ujczko was charged with exploring whether the conference could commence on Thursday am, concluding Friday evening. The committee suggested that the 35 anniversary gala be held the Thursday evening of the conference. Lussenburg repeatedly emphasized during the discussion that CUSLI consider how to bring business people do this conference. All parties concurred.

Ujczko concluded the discussion of CUSLI’s programs by advising that the *Canada United States Law Journal* now published two issues per year – one issue as the edited transcript of the conference proceedings; and one issue as scholarly works. Ujczko advised that the next issue of the journal will provide the papers prepared by King, T. Brookbrooke Smith, and Louis Sohn on the ABA-CBA-Barra Mexicana Joint Working Group on the Settlement of International Disputes. Ujczko further advised that scholarly articles and student research will be included in the issue. Ujczko remarked that the journal was “student-run” and that the students selected the issue’s topic. Lussenburg enquired as to whether CUSLI was posting the journal on-line. Ujczko responded that the journal was published on Westlaw and Lexis, and that CUSLI was exploring posting the journal on its website. Ujczko advised that CUSLI enhanced its student exchange relationships by streamlining the accreditation process in order that 2 students per year may exchange, and expanded the program to include Western Law’s exchanges with Southwestern University (Los Angeles), American University, and Washington & Lee University, as well as Case Western Reserve’s relationship with the University of Ottawa. Ujczko explained that this was consistent with CUSLI vision to be the “big tent” for Canada-US programs. He recommended that the next step would be to bring all of these programs under the Institute’s umbrella, including ensuring that these schools participate in the Niagara and that the respective faculties have the opportunity to publish in the journal, as well as participate in CUSLI events.

Ujczko then turned to the second “e” – specifically, CUSLI’s establishing of new programs. He noted that CUSLI had establish a Canada-US curriculum at each law faculty, with members of the Advisory Board teaching courses. Ujczko cited the Institute’s relationship with the US Department of Homeland Security and United States

Coast Guard where students participate in a “lab” to perform research for the department. Ujczko opined that the program was a great success and fertile ground to gain support from DHS. Ujczko also advised that CUSLI was exploring Western Law students participating in the “Lab” via videoconference. Carmody championed the internship/externship programs with the Council of Great Lakes Governors and the Great Lakes St. Lawrence Cities Initiative. Ujczko explained that internships provided great experience for the students and fostered relationships between CUSLI and these organizations. Ujczko suggested that marketing for the annual conference target these organizations. All parties concurred. Carmody discussed Western Law’s CUSLI Distinguished Lecture and advised that more than 75 persons attended the last lecture featuring Janice Stein. Carmody advised that efforts to secure Mayor Bing of Detroit had failed. The Executive Committee offered assistance in securing a lecturer, potentially fmr. US Sen. Tom Daschle, now a partner at DLA Piper.

Ujczko mentioned that CUSLI was exploring the creation of a media and speakers’ bureau of CUSLI Advisory Board members to respond to media requests. Ujczko agreed to develop this and present a proposal at the next Executive Committee meeting.

Structure & Governance

The discussion turned toward the structure and governance of the Institute. Ujczko suggested that Chris Sands be invited to join the Advisory Board. All parties agreed. Cameron suggested that Jean Anderson of Weil Gotshal had expressed interest in joining. All parties agreed. Lussenburg suggested that Meg Kinnear (ICSID) may be interested. She agreed to explore this invitation for an Honorary Advisory Board member. Ujczko noted that Bennett Jones would be joining CUSLI and would appoint Jessica LeCroy as its member on the Advisory Board. The parties agreed to establish a membership/nominating committee of the Advisory Board to nominate members to the board on a regular basis.

Ujczko noted the US vacancy on the Executive Committee. Newcomb advised that Advisory Board member Davis Robinson, formerly the Legal Advisor in the US Dept. of State, would be interested and a great candidate. Scharf advised that he worked with Robinson and agreed. Newcomb submitted a motion to invite Davis Robinson to join the Executive Committee. Robinson seconded the motion. The motion carried by unanimous vote. Ujczko raised the issue of Executive Committee rotation, noting that the Executive Committee tenure was 2 years (3 for the chairs) and the present committee had served since 2006. Robinson suggested that CUSLI start rotating one US and one Canadian Executive Committee member each year, starting with the April 2011 Advisory Board meeting. All parties concurred. Lussenburg raised the issue of diversity in terms of gender, visible minorities, and age. She advised that the Advisory Board was well-balanced – however, the Executive Committee did not reflect this diversity. Co-Chairs Blanchard and Peterson concurred. All parties agreed that CUSLI should render this a priority and would charge the Nominating Committee with this mandate.

Financials

As the meeting concluded, Ujczko presented CUSLI's financial statements. He advised that CUSLI had achieved a budget surplus of \$5,000.00 in FY 09-10 and that a full statement would be presented after the "hard close" of the books in July 2010. He then presented the Membership Criteria presented to the Executive Committee in November 2009 that established various tiers of funding -- \$10,000; \$5,000; \$2,500; \$1000; \$500; \$250. The Executive Committee reviewed the document and made edits to the language. Ujczko was charged with implementing the changes and resubmitting to the Executive Committee. Newcomb again expressed his view that CUSLI should "ask big." Ujczko concluded the presentation by noting that he would circulate the membership materials for review and launch the annual fund campaign in August 2010, with follow-up to be provided as discussed during the March 4 meeting. Lussenburg enquired as to the disconnect between CUSLI's FY (July) with corporate planning (Jan). Newcomb concurred. Ujczko agreed to explore the issue.

The meeting concluded at 2:38 PM with the following action items:

Ujczko to invite Crane and Sands to serve as conference co-chair; establish planning meeting for conference topic; and prepare report for Executive Committee for approval by August 1 deadline;

Newcomb to invite Robinson to serve as US Executive Committee Member; formal invitations to issue by co-Chairs;

Cameron to informally invite Jean Anderson to serve as Advisory Board member; Ujczko to informally invite Sands; formal invitation to issue by Co-Chairs;

Ujczko to prepare membership materials for distribution to Advisory Board.