

CONFERENCE OF CHIEF JUSTICES

Resolution 10

To Call Upon the United States Trade Representative to Negotiate, and the United States Congress to Approve, Provisions in Trade Agreements that Recognize and Support the Sovereignty of State Judicial Systems To Regulate the Admissions and Performance Standards for All Persons Seeking to Practice as Lawyers in Each State

WHEREAS, the Conference of Chief Justices has long been vigilant in monitoring and defending against federal policy initiatives that may have the effect of preempting state laws; and

WHEREAS, from the earliest days of our republic, lawyers have been regulated by the highest court of the state in which a bar member is licensed, and state courts in turn have developed extensive and effective regulations governing all aspects of the practice of law including strict ethical codes and disciplinary processes; and

WHEREAS, since state supreme courts are in closest proximity to the consumers of legal services, they are in the best position to determine the core qualities for a lawyer to obtain and maintain a license to provide legal advice and advocacy; and

WHEREAS, the Conference of Chief Justices is cognizant of the increasing globalization of legal markets and the growth of lawyers practicing across national borders; and

WHEREAS, the Conference of Chief Justices seeks to harmonize its advocacy of federalism principles with the practicalities of providing legal services in the global context; and

WHEREAS, several multilateral free trade negotiations, that largely include trade-in-services components, are being conducted by the Office of the United States Trade Representative (USTR) with vigor and hope for fast-track conclusion – namely, the Trans-Pacific Partnership Agreement (with respect to Pacific Rim countries), the International Services Agreement, and the recently proposed Transatlantic Trade and Investment Partnership Agreement (commonly called the US-EU trade agreement); and

WHEREAS, on May 20, 2009, President Obama promulgated a Memorandum for the Heads of Executive Departments and Agencies stating that “preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States”; and

WHEREAS, the Conference of Chief Justices adopted CCJ Resolution 26 (2004) urging the USTR “to negotiate, and the United States Congress to approve, provisions in trade agreements that recognize and support the sovereignty of state judicial systems and the enforcement and finality of state court judgments;”

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges the United States Trade Representative to negotiate, and the United States Congress to approve, provisions in trade agreements that recognize and support the sovereignty of state judicial systems to regulate the admissions and performance standards for all persons seeking to practice as lawyers in each state.

Adopted as proposed by the CCJ Task Force on Foreign Lawyers and the International Practice of Law at the 2013 Annual Meeting on July 31, 2013.