

Resolution 26
Regarding Provisions in International Trade Agreements Affecting the Sovereignty of State Judicial Systems and the Enforcement of State Court Judgments

WHEREAS, the judicial systems of the various states are recognized as mature, modern, fair and transparent; and

WHEREAS, the judgments of state trial courts are subject to an extensive appellate review process under well-established, recognized constitutional and legal standards; and

WHEREAS, the investor-state process as embodied in Chapter 11 of the North American Free Trade Agreement (NAFTA) and similar provisions in other trade agreements create a procedure for foreign investors to challenge state court judgments that is not available to U.S. citizens and businesses; and

WHEREAS, these challenges can undermine 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 and the enforcement and finality of state court judgments; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices urges the United States Trade Representative and the United States Congress to clarify that under existing trade agreements, foreign investors shall enjoy no greater substantive and procedural rights than U.S. citizens and businesses.

Adopted as proposed by the International Agreements Committee at the 56th Annual Meeting on July 29, 2004.