1. **What procedures exist for recognition and enforcement of foreign judgments pursuant to conventions?**

   a. First of all it is important to note that the Province of Quebec per se is not party to any international conventions of this nature since it is not a distinct country, but forms part of Canada. However, Quebec civil law is distinct from the civil laws of the other provinces of Canada since it is governed by the Quebec Civil Code ("C.C.Q.") and other relevant statutes. The articles of the C.C.Q. which deal with foreign judgments are derived from international conventions, and the principles underlying these articles are quite similar to those applicable in the rest of Canada and in other countries who are parties to these conventions.

   b. It is also important to note that under the Canadian Constitution certain matters are governed by the federal law of Canada, while others are governed by provincial laws. Those matters which fall under the federal law would be subject to the provisions of international conventions to which Canada is a party, but most civil matters fall under provincial jurisdiction.

2. **What procedures exist for recognition and enforcement of foreign judgments pursuant to statute or common law?**

   (i) **Procedural Rules**

   The C.C.Q. is a statute of the Province of Quebec and for the most part governs all civil legal matters which fall within the jurisdiction of Quebec. Furthermore, civil procedure is governed by another statute, namely, the Quebec Code of Civil Procedure ("C.P.C.Q."). The principles of Common Law are not applicable to Quebec civil law, although they are generally applicable in the rest of Canada.

   The procedures which govern the recognition and enforcement of foreign decisions are set forth in Articles 785 and 786 C.P.C.Q. and are basically the following:

   An application to recognize and enforce a decision outside Quebec (this would include decisions in other provinces of Canada, as well as foreign countries), is filed in the same manner as any other action i.e. by way of a Motion to Institute Proceedings. Plaintiff should attach to this action a copy of the foreign decision together
with a certificate from a competent court of the foreign jurisdiction confirming that the decision is final or enforceable. If the decision was rendered by default, Plaintiff must also file certified copies of documents establishing how the proceedings were served on the defaulting party. Finally, all documents which were drafted in a language other than French or English must be accompanied by a translation which has been authenticated in Quebec.

(ii) Principles Governing Enforceability

The C.C.Q. in Articles 3155 and 3163 sets forth the principles which govern the issue as to whether or not a foreign judgment will be recognized in Quebec. The general rule is that Quebec will recognize foreign judgments, but there are several exceptions which can be summarized as follows:

(a) if the country where the decision was rendered had no jurisdiction under the provisions of Quebec law;

Articles 3164 to 3168 C.C.Q. sets forth the principles under which Quebec authorities will accept the jurisdiction of foreign authorities. In principle the foreign jurisdiction will not be recognized where Quebec law grants exclusive jurisdiction to Quebec authorities (or some other foreign authority) by reason of either (i) the subject matter of the judgment; or (ii) as a result of an agreement between the parties; or (iii) if Quebec law recognizes an agreement by which exclusive jurisdiction has been conferred upon an arbitrator. There are other exceptions which deal with family matters.

Finally, Quebec law will recognize the jurisdiction of most personal (as opposed to real) actions if they meet any one or more of these criteria, namely:

(i) the Defendant is domiciled in the country where the decision was rendered;

(ii) the Defendant possessed an establishment in that country and the dispute relates to Defendant’s activities in that country;

(iii) a prejudice was suffered in that country and resulted from a fault which was committed, or an injurious act which took place in that country;

(iv) the obligations arising from a contract were to be performed in that country;

(v) that the parties have by agreement submitted the dispute to the foreign authority in question (this is not applicable to consumer contracts or employment matters); or
(vi) the Defendant has recognized the jurisdiction of the foreign authority.

(b) If the decision of the foreign court is subject to remedies within that jurisdiction or is not final or enforceable.

(c) If the decision was rendered in contravention of the fundamental principles of procedure;

(d) if there is a dispute between the same parties on the same subject matter has been decided in Quebec, or is pending before a Quebec authority, or has been decided in a third country whose decision will be recognized in Quebec;

(e) if the outcome of the foreign decision is manifestly inconsistent with public order as understood in international relations;

(f) if the decision enforces obligations arising from the taxation laws of a foreign country which does not, in turn, recognize and enforce Quebec taxation laws.

3. Are there any practical problems or special time factors that a party seeking to enforce a foreign judgment should bear in mind?

There is no specific timing which governs the parties seeking recourse of a foreign judgment so long as the judgment is still enforceable in the foreign country, i.e. that the applicable statute of limitations permits enforcement.

4. Are there any public policy or other issues which may affect enforceability?

The public policy issue which affect enforceability are listed in the last section of paragraph 2 above.

5. What are the time limits for bringing civil claims?

Time limits for bringing civil claims in Quebec are basically ten years to enforce real (as opposed to personal) rights, and three years to enforce personal rights. The date of commencement of the time limits will vary with the circumstances.

6. Are court proceedings confidential or public?

The court proceedings are generally public with rare exceptions.

7. How are civil proceedings commenced?

Civil proceedings are commenced by way of motion to the court which is usually presentable for hearing thirty days after service.

8. What interim remedies are available?
The C.P.C.Q. provides for interim remedies such as injunctions and seizures before judgment, but these are extraordinary remedies which require a judge’s permission and which are subject to immediate review by the courts.

9. **Does the court have power to order costs or to order security for costs?**

The court has the power and in fact is obliged to order security for costs if requested by the Defendant when the Plaintiff is foreign. The security required is roughly equivalent to 1% of the amount claimed.

10. **If a contract has some connection with your jurisdiction, are there mandatory laws under the local law that would apply to the contract irrespective of the parties’ choice of law in the contract?**

Quebec law will retain jurisdiction in several circumstances irrespective of the parties’ choice of law in a contract. There are specific provisions which deal with contracts where a Quebec resident is a consumer or a worker under an employment contract. In these instances not only will the Quebec courts have competence to hear the case, but they will apply provisions which provide consumers and employees the protection to which they are entitled in Quebec.

Other cases where Quebec will impose its own law include insurance claims by Quebec residents if the insurable interest is situated in Quebec, or if the loss took place in Quebec. Furthermore, actions relating to real property which is situated in Quebec, will be subject to Quebec jurisdiction and may or may not be subject to Quebec law, depending on the circumstances.

Similar provisions apply to successions which open in Quebec, or if the defendant is domiciled in Quebec, or if the deceased has elected that Quebec law should govern the succession.

Finally, there are specific rules which relate to matrimonial matters, and particularly the division of property between spouses where one of them has a residence in Quebec.

**PART II: ENFORCEMENT OF ARBITRAL AWARDS**

11. **What procedures exist for enforcement of foreign awards?**

The C.P.C.Q. has a procedure where the recognition and enforcement of arbitration awards are made outside of Quebec. This procedure is also by way of motion before a court to
“homologate” i.e. confirm and validate the award for Quebec purposes.

This motion must have attached to it a copy of the award authenticated by either the Government of Canada, certain specific Quebec officials, or by the government or a public officer of the place where the award was made.

**Conventions**

12. Is your country party to the New York Convention, Washington Convention and/or Geneva Convention?

Although Quebec is not a party to any of these Conventions, it does take into consideration the following international documents:


(2) the Report of the United Nations Commission on International Trade Law on the work of its eighteenth session held in Vienna from the third to the twenty-first day of June 1985;

(3) the Analytical Commentary on the draft text of a model law on international commercial arbitration contained in the report of the Secretary-General to the eighteenth session of the United Nations Commission on International Trade Law.

13. Is the arbitration law based on the UNCITRAL Model Law?

The arbitration law in Quebec is indirectly based upon and will take into account the Convention on the Recognition and Enforcement of Foreign Arbitral Awards as adopted by the United Nations Conference on International Commercial Arbitration at New York on 10 June 1958.

14. Are there arbitration awards which will not be enforced due to the subject matter of the dispute?

An application for recognition and execution of a foreign arbitration award may be objected to if the objecting party establishes that either:

(1) one of the parties was not qualified to enter into the arbitration agreement;
(2) the arbitration agreement is invalid under the law elected by the parties or failing any indication in that regard under the laws of the place where the award was made;

(3) if the party objecting was not given proper notice of the appointment of an arbitrator or of the proceedings, or was otherwise unable to present his case;

(4) if the award deals with a dispute which doesn’t fall within the terms of the arbitration agreement, or if the award goes beyond the scope of the agreement. In this latter event, that part of the award which falls within the scope of the agreement may still be recognized;

(5) if the manner in which the arbitrators were appointed, or the arbitration procedure did not conform to the agreement of the parties, or if there was no such agreement with the laws of the place where the arbitration took place;

(6) if the arbitration award is not yet binding, or has been set aside, or suspended pursuant to the laws of the place where the arbitration award was made.

Finally, the award will not be recognized if such recognition and/or the execution of the award is contrary to public order.

**SPECIFIC FEATURES**

15. Are there any specific features of the dispute resolution system not addressed in any of the previous questions?

We do not consider that the Quebec dispute resolution system contains any unusual provisions which are not referred to above.