

Impact of Choice of Courts Convention on US-Mexico crossborder litigation

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The Hague Convention on Choice of Court Agreements is an international treaty that has been signed, but not yet ratified, by the United States of America.

The US Department of State has been working on how to implement the treaty. It appears that the final word on implementation will be through a “cooperative federalism” approach, where there would be a federal statute which states could opt out of if they implement the treaty through a uniform law that the Uniform Law Commission is working on under the name of Choice of Court Agreements Convention Implementation Act. A draft of this uniform law was published in July 2012 by the Uniform Law Commission. There is still some work to be done before the US ratifies the Choice of Court treaty but it will be ratified in the near future.

What makes it a very important treaty is that it would be the first international treaty signed by the United States for the recognition and enforcement of foreign judgments from countries which are parties to the treaty. And it is even more so to US-Mexico crossborder litigation because Mexico is, at this time, the only party to the Choice of Court Convention. What this means is that when the United States ratifies this international treaty that the United States will recognize and enforce judgments from Mexico and Mexico will recognize and enforce judgments from the United States under the terms of this international treaty.

Ratification by the United States of the Hague Convention on Choice of Court Agreements will be an important change to international litigation in the United States in general but a very significant one for US-Mexico crossborder litigation.

Antonio Maldonado is an attorney licensed to practice law in California and Mexico, and is the principal attorney at [Maldonado Law Group PC](#), which is focused on US-Mexico crossborder litigation.