Hague Conference On Private International Law

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INFORMATION ON THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

The Hague Conference on Private International Law is an intergovernmental organization the purpose of which is “to work for the progressive unification of the rules of private international law” (Statute, Article 1) (see also the attached Resolution of the Seventeenth Session).

Official List of Conventions
List of Conventions
Address:

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6 Scheveningseweg
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A. BACKGROUND, ESTABLISHMENT AND STATUS

The First Session of the Hague Conference on Private International Law was convened in 1893 by the Netherlands Government on the initiative of T.M.C. Asser (Nobel Peace Prize 1911). Prior to the Second World War, six Sessions were held (1893, 1894, 1900, 1904, 1925 and 1928). The Seventh Session in 1951 marked the beginning of a new era by the preparation of a Statute which made the Conference a permanent intergovernmental organization. The Statute entered into force on 15 July 1955. Since 1956, regular plenary sessions have been held every four years, the Sixteenth of which met in 1988. The Seventeenth Session which marked the Centenary of the Conference was held from 10-29 May 1993. The Eighteenth Session will take place in October 1996.

B. METHODS OF OPERATION

The principal method used to achieve the purpose of the Conference consists in the negotiation and drafting of multilateral treaties or Conventions in the different fields of private international law (international judicial and administrative co-operation; conflict of laws for contracts, torts, maintenance obligations, status and protection of children, relations between spouses, wills and estates or trusts; recognition of companies; jurisdiction and enforcement of foreign judgments). After preparatory research has been done by the secretariat, preliminary drafts of the Conventions are drawn at the Special Commissions made up of governmental experts. The drafts are
then discussed and adopted at a Plenary Session of the Hague Conference, which is a diplomatic conference.

The secretariat of the Hague Conference maintains close contacts with the Governments of its Member States through National Organs designated by each Government. For the purpose of monitoring the operation of certain treaties involving judicial or administrative co-operation, the Permanent Bureau enters into direct contact from time to time with the Central Authorities designated by the States Parties to such treaties. In order to promote international co-operation and to ensure co-ordination of work undertaken by different bodies, the Hague Conference also maintains continuing contacts with the United Nations, particularly its Commission on International Trade Law (UNCITRAL), Unicef and the High Commissioner for Refugees (UNHCR); the Council of Europe, the European Union, the Organization of American States, the Commonwealth Secretariat, the Asian-African Legal Consultative Committee, the International Institute for the Unification of Private Law (UNIDROIT) and other international organizations. Certain non-governmental organizations, such as the International Chamber of Commerce, the International Bar Association, International Social Service and the International Union of Latin Notaries also send observers to follow the work of the Conference.

C. MEMBER STATES

The following 43 States are Members of the Conference: Argentina, Australia, Austria, Belgium, Canada, Chile, China, Croatia, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, the Federal Republic of Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Latvia, Luxembourg, The former Yugoslav Republic of Macedonia, Malta, Mexico, Morocco, the Netherlands, Norway, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Suriname, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and Venezuela.

States which have participated in one or more of the earlier Sessions of the Conference may become Members of the organization by accepting the Statute. Other States must be admitted by vote: admission is decided upon by a majority of Member States voting on a proposal made by one or several of them.

D. INSTITUTIONAL STRUCTURE

1. PLENARY SESSIONS

Plenary Sessions meet in principle every four years in ordinary diplomatic session. In case of need, as occurred in 1966 and 1985, an Extraordinary Session may be held. The Plenary Sessions discuss and adopt the draft Conventions (and sometimes Recommendations) prepared by the Special Commissions and take decisions on the subjects to be included in the agenda for the Conference’s work. All of the texts adopted are brought together in a Final Act which is signed by the delegations. Under the rules of procedure of the Plenary Sessions each Member State has one vote. Decisions are taken by a majority of the votes cast by the delegations of Member States which are present at the vote. Non-Member States invited to participate on an equal footing with Member States also have the right to vote. Under a tradition which has been
followed since the First Session, the President elected for the Plenary Session has always been the leading Delegate of the Netherlands.

2. Directing Organs

Under the Statute, the operation of the Conference is ensured by the Netherlands Standing Government Committee for the codification of private international law. Formally it is this Committee which sets the dates and the agenda for the Plenary Sessions. However, in practice, following a progressive constitutional evolution, the Member States have come to exercise a more direct influence on the decision-making process in this respect, as well as in other matters of general policy of the Conference. Thus it is that Special Commissions of governmental experts meeting between Sessions make recommendations and that the Plenary Sessions make decisions concerning the agenda.

3. Secretariat

The activities of the Conference are organized by a secretariat - the Permanent Bureau - which has its seat at The Hague and whose officials must be of different nationalities. The Secretary General is assisted currently by three other lawyers: two Deputy Secretary Generals and one First Secretary. The Permanent Bureau’s main task is the preparation and organization of the Plenary Sessions and the Special Commissions. Its members carry out the basic research required for any subject that the Conference takes up. They also maintain and develop contacts with the National Organs, experts and delegates of Member States and the Central Authorities designated by the States Parties to the Hague Conventions on judicial and administrative cooperation, as well as with international organizations and, increasingly, respond to requests for information from users of the Conventions (lawyers, notaries, officials, companies, journalists).

4. Budget; Council of Diplomatic Representatives

The budget of the Permanent Bureau and the Special Commissions is submitted each year by the Secretary General for approval by the Council of Diplomatic Representatives of Member States. This Council also apportions the expenses among the Member States. The system of classification follows in principle the scheme which is applied in the Universal Postal Union.

E. Achievements, Monitoring of Results and Work in Progress

Between 1893 and 1904 the Conference adopted seven international Conventions, six of which have been subsequently replaced by more modern instruments. From 1951 to 1993 the Conference adopted 32 international Conventions. Until 1960 the Conventions were drafted only in French; since then they have been drawn up in French and English. Among the texts which have been the most widely ratified should be mentioned the Conventions on Civil Procedure, on Service of Process and on Taking of Evidence Abroad, the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, the Convention on the Conflicts of Laws
Relating to Testamentary Dispositions, the Conventions dealing with maintenance obligations, the Convention on the Recognition of Divorces and Legal Separations and the Conventions on the Protection of Minors and on the Civil Aspects of International Child Abduction. Some of the Hague Conventions deal with the determination of the applicable law, some with the conflict of jurisdictions, some with the recognition and enforcement of foreign judgments and some with administrative and judicial co-operation between authorities, and some combine one or more of these aspects of private international law.

From time to time, Special Commissions are held at The Hague to monitor the practical operation of Hague Conventions, including the Hague Service and Evidence Conventions, the Hague Child Abduction Convention and the new Adoption Convention.

The main topic for the Seventeenth Session held in May 1993 was the preparation of a convention on intercountry adoption. Participation in this Session and the preparatory Special Commission meetings was open to certain non-Member States of the Hague Conference invited for that purpose. The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption entered into force on 1 May 1995.

The agenda for the next (Eighteenth) Session of the Hague Conference, to be held in the autumn of 1996, includes among other things, the revision of the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors, and a possible extension of the new convention’s scope to the protection of incapacitated adults, the question of the recognition and enforcement of foreign judgments in civil and commercial matters and the question of the determination of the law applicable, and possibly questions arising from conflicts of jurisdiction, in respect of civil liability for environmental damage (see also F infra).

F. ADDITIONAL ACTIVITIES

In addition to its principal activities, the preparation and monitoring of Hague Conventions, the Conference has recently expanded its activities into new fields. In conjunction with the Institute for Private International Law and Comparative Law of the University of Osnabrück, it organized in April 1992 a three-day Colloquium on the Outlook for Private International Law After the End of the Cleavage in Europe, and it conducted, with the American Bar Association and the Private Adjudication Center of Duke University School of Law, a three-day International Symposium on the Role of the Hague Conference on Private International Law in Durham, North Carolina, in October 1992. From 7-9 April 1994 a second colloquium was co-organized with the Institute for Private International Law and Comparative Law of the University of Osnabrück under the theme of “Towards a Convention on the Private International Law of Environmental Damage”. The Conference also supported the Eighth World Conference of the International Society of Family Law on the theme “Families Across Frontiers” held in Cardiff (Wales, United Kingdom) from 28 June-2 July 1994 and co-organized with the Netherlands Committee for the International Year of the Family, an in-depth study conference on “Children on the Move: How to implement their right to family life” (The Hague, The Netherlands) from 24-26 October 1994.

The Conference has also become active in operational activities. In 1991 a Member of the

Increasingly over recent years, interns have been able to spend a period of time at the Permanent Bureau carrying out research on a topic of current interest.

G. PUBLICATIONS

The Conventions prepared by the Hague Conference since 1951 appear in the Collection of Conventions which is published at regular intervals by the Permanent Bureau (latest edition: Collection of Conventions - 1951-1988). The preliminary documents, preliminary draft Conventions and minutes of discussions as well as the Explanatory Reports on the texts adopted appear in the Proceedings edited after each Session. Practical Handbooks on the operation of the Hague Service and Evidence Conventions were published in 1983 and 1985, respectively, and are supplemented or revised from time to time.

ADDRESS FOR PUBLICATIONS:

Further information on the distributors for these publications and on the status of signatures and ratifications of the Conventions may be obtained upon request from the:

Permanent Bureau of the Hague Conference on Private International Law
6 Scheveningseweg
2517 KT The Hague
Netherlands
Tel.: (31/70) 363.33.03
Fax: (31/70) 360.48.67
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RESOLUTION ADOPTED BY THE SEVENTEENTH SESSION ON THE OCCASION OF THE CELEBRATION OF THE CENTENARY OF THE CONFERENCE


12 October 1995

Resolution adopted by the Seventeenth Session of the Hague Conference on Private International Law in the presence of the Ministers of Justice and High Representatives of the Member
States of the Hague Conference meeting at The Hague, 19 May 1993 on the occasion of the celebration of the Centenary of the Conference The Seventeenth Session, in the presence of the Ministers of Justice and High Representatives of the States Members of the Hague Conference on Private International Law, meeting at The Hague on 19 May 1993 on the occasion of the celebration of the Centenary of the Conference,

Considering that according to its Statute, the Conference’s purpose is to work for the progressive unification of the rules of private international law,

Considering the unique, broad and important work accomplished by the Conference and the effectiveness of its working methods confirmed by the fact that since the Seventh Session in 1951 thirty-one Conventions have been drawn up,

Confirming that the Conference’s mission is to facilitate both the relationships between private parties across international borders and international legal transactions,

Recognizing that the Conference also is developing into a worldwide centre in the service of international judicial and administrative co-operation in the field of private law, and particularly in the area of child protection,

Considering however that it is essential that the Conference continue to be effectively supported by its Member States within their Countries and in other international organizations,

Congratulates the Conference on its contributions to the field of private international law over the past century;

Urges Member States both to maintain and enhance their support for the Conference and to encourage non-Member States to join the Conference;

Recommends to the Member States that they:

1. explore and develop mechanisms in consultation with the Permanent Bureau to encourage wider adherence to Hague Conventions;

2. take the appropriate measures to publicize the existence and the operation of the Conventions;

3. work in co-operation with the Permanent Bureau to develop effective mechanisms to implement the Conventions;

4. co-ordinate more fully their positions on private international law in various international bodies involved with unification or harmonization of questions of private law.
DOCUMENT INFORMATION

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