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# APERÇU DES CONVENTIONS ET AUTRES INSTRUMENTS ÉTABLIS SOUS LES AUSPICES DE LA CNUDCI, D'UNIDROIT ET DE LA CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ

*document établi par le Bureau Permanent*

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# OVERVIEW OF CONVENTIONS AND OTHER INSTRUMENTS DRAWN UP UNDER THE AUSPICES OF UNCITRAL, UNIDROIT AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

*document drawn up by the Permanent Bureau*

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# OVERVIEW OF CONVENTIONS AND OTHER INSTRUMENTS DRAWN UP UNDER THE AUSPICES OF UNCITRAL, UNIDROIT AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW[1]

## I. COMMERCIAL LAW AND FINANCE LAW

### A. Banking – Credit – Finance – Insolvency

*Conventions*

1. United Nations Convention on International Bills of Exchange and International Promissory Notes, adopted on 9 December 1988.[2]
2. United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, adopted on 11 December 1995.
3. United Nations Convention on the Assignment of Receivables in International Trade, adopted on 12 December 2001.
4. UNIDROIT Convention on International Factoring, Ottawa, 28 May 1988.
5. UNIDROIT Convention on International Financial Leasing, Ottawa, 28 May 1988.
6. UNIDROIT Convention on International Interests in Mobile Equipment and Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, Cape Town, 16 November 2001; Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, Luxembourg, 23 February 2007; Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets, Berlin, 9 March 2012; possible future work on a Protocol on Matters specific to Agricultural, Mining and Construction Equipment.

*Other*

7. UNIDROIT Model Law on Leasing, adopted on 13 November 2008.
8. UNCITRAL Legal Guide on Electronic Funds Transfers, adopted in 1987.
9. UNCITRAL Model Law on International Credit Transfers, adopted on 15 May 1992.
10. UNCITRAL Model Law on Cross-Border Insolvency, adopted on 30 May 1997.
11. UNCITRAL Legislative Guide on Insolvency Law, adopted on 25 June 2004.
12. UNCITRAL Legislative Guide on Secured Transactions, adopted on 14 December 2007.
13. UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property, adopted on 29 July 2010.
14. UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation, adopted on 1 July 2009
15. UNCITRAL Legislative Guide on Insolvency Law, Part three: Treatment of enterprise groups in insolvency, adopted on 1 July 2010.
16. Joint publication of "UNCITRAL, Hague Conference and UNIDROIT Texts on Security Interests - Comparison and analysis of major features of international instruments relating to secured transactions".

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[1] Overview prepared by the Permanent Bureau of the Hague Conference on Private International Law in consultation with the secretariats of UNCITRAL and UNIDROIT, as an update of Work. Doc. No 3 distributed during the Council of April 2007 on General Affairs and Policy of the Conference. Any errors or omissions should be attributed to the Permanent Bureau.

[2] Conventions are adopted by the General Assembly (with the exception of the CISG and the Hamburg Rules that were adopted by a diplomatic conference) and model laws, guides or other texts are adopted by the Commission (with the exception of the UNCITRAL Legal Guide on Electronic Funds Transfers, which was prepared by the Secretariat).

17. UNCITRAL Model Law on Cross-Border Insolvency: The Judicial Perspective, adopted on 1 July 2011.

## B. Capital markets and securities

*Conventions*

1. Hague Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary.
2. UNIDROIT Convention on Substantive Rules for Intermediated Securities (Geneva Securities Convention), Geneva, 9 October 2009.

*Other*

3. Ongoing UNIDROIT work on the preparation of principles and rules on netting of financial instruments and on a Legislative guide on Principles and rules capable of enhancing trading in securities in emerging markets. Other work is envisaged within UNIDROIT on Securities and Capital Markets concerning: Standardised "global shares"; Legal framework regarding "delocalised" transactions; Worldwide take-over bids.

## C. Procurement and infrastructure development

1. UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works, adopted on 14 August 1987.
2. UNCITRAL Model Law on Procurement of Goods and Construction with Guide to Enactment, adopted on 16 July 1993.
3. UNCITRAL Model Law on Procurement of Goods, Construction and Services with Guide to Enactment, adopted on 15 June 1994.
4. UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects, adopted on 29 June 2000.
5. UNCITRAL Model Legislative Provisions on Privately Financed Infrastructure Projects, adopted on 7 July 2003.
6. UNCITRAL Model Law on Public Procurement, adopted on 1 July 2011.
7. Guide to Enactment of the UNCITRAL Model Law on Public Procurement, adopted on 28 June 2012.

## D. Law of contracts

### General law of contracts

*Conventions*

1. United Nations Convention on the Use of Electronic Communications in International Contracts, adopted on 23 November 2005.

*Other*

2. Draft Hague Principles on Choice of Law in International Commercial Contracts.
3. UNIDROIT Principles of International Commercial Contracts (3rd ed., 2010); basis for the draft OHADA Uniform Act on Contract Law.
4. UNCITRAL Uniform Rules on Contract Clauses for an Agreed Sum Due upon Failure of Performance, adopted in 1983.
5. UNCITRAL Recommendation on the Legal Value of Computer Records, adopted in 1985.

6. UNCITRAL Model Law on Electronic Commerce with Guide to Enactment 1996, with additional Article 5 *bis* as adopted in 1998.
7. UNCITRAL Model Law on Electronic Signatures with Guide to Enactment, adopted on 5 July 2001.
8. UNCITRAL – Promoting confidence in electronic commerce: legal issues on international use of electronic authentication and signature methods, completed in 2007.

**Specific contracts**

**a. Sales and countertrade transactions**

*Conventions*

1. Hague Convention of 15 June 1955 on the law applicable to international sales of goods.
2. Hague Convention of 22 December 1986 on the Law Applicable to Contracts for the International Sale of Goods.
3. United Nations Convention on Contracts for the International Sale of Goods, adopted on 11 April 1980.
4. United Nations Convention on the Limitation Period in the International Sale of Goods (as amended by 1980 Protocol), adopted on 12 June 1974.
5. UNIDROIT Convention relating to a Uniform Law on the International Sale of Goods, adopted at The Hague on 1 July 1964.
6. UNIDROIT Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods, adopted at The Hague on 1 July 1964.

*Other*

7. Declaration relating to the scope of the Hague Convention of 15 June 1955 on the law applicable to international sales of goods whereby the Convention "does not prevent States Parties from applying special rules on the law applicable to consumer sales", adopted on 25 October 1980.
8. Hague Articles of 25 October 1980 on the Law Applicable to Certain Consumer Sales.
9. UNCITRAL Uniform Rules on contract clauses for an agreed sum due to failure upon performance, adopted in 1983.
10. UNCITRAL Legal Guide on International Countertrade Transactions, adopted on 12 May 1992.

**b. Agency**

1. Hague Convention of 14 March 1978 on the Law Applicable to Agency.
2. UNIDROIT International Convention on Travel Contracts (CCV), Brussels, 23 April 1970.
3. UNIDROIT Convention on Agency in the International Sale of Goods, Geneva, 17 February 1983.

**c. Franchising**

1. UNIDROIT Guide on International Master Franchise Agreements of 1998 (2nd ed., 2007).
2. UNIDROIT Model Franchise Disclosure Law, adopted on 25 September 2002.

### d. Carriage of goods

*Conventions*

1. UN / ECE Convention of 19 May 1956 on the Contract for the International Carriage of Goods by Road (CMR), as amended by the 1978 and 2008 Protocols, prepared by UNIDROIT.
2. United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules), adopted on 31 March 1978.
3. United Nations Convention on the Liability of Operators of Transport Terminals in International Trade, adopted on 19 April 1991.
4. United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (the "Rotterdam Rules"), adopted on 11 December 2008.

*Other*

5. UNCITRAL Unit of Account Provision and Provisions for the Adjustment of the Limit of Liability in International Transport and Liability Conventions, adopted on 28 July 1982.

### E. Law of torts

*Conventions*

1. Hague Convention of 4 May 1971 on the Law Applicable to Traffic Accidents.
2. Hague Convention of 2 October 1973 on the Law Applicable to Products Liability.

### F. Law of trusts

Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition.

## II. ADMINISTRATIVE AND JUDICIAL CO-OPERATION, ACCESS TO JUSTICE, AND DISPUTE RESOLUTION IN CIVIL AND COMMERCIAL MATTERS

### G. Administrative and judicial co-operation and access to justice

*Conventions*

1. Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, including ongoing work on the electronic Apostille Program (e-APP, which promotes the use of e-Apostilles and online e-Registers of Apostilles).
2. Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.
3. Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.
4. Hague Convention of 25 October 1980 on International Access to Justice.

*Other*

5. Practical Handbook on the operation of the 1965 Hague Service Convention (3rd ed., 2006).
6. The ABCs of Apostilles (2010).

7. How to join and implement the Hague Apostille Convention - A Brief Guide for Countries Interested in Joining the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (April 2011).
8. Draft Handbook on the practical operation of the Apostille Convention (April 2013).
9. Ongoing Hague Conference work on access to foreign law.

## H. International litigation

*Conventions*

1. Hague Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, including the Additional Protocol.
2. Hague Convention of 30 June 2005 on Choice of Court Agreements.
3. UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, Rome, 24 June 1995.

*Other*

4. ALI / UNIDROIT Principles of Transnational Civil Procedure, adopted in 2004.

## I. Arbitration

*Conventions*

1. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"), adopted on 10 June 1958.

*Other*

2. UNCITRAL Arbitration Rules, adopted on 28 April 1976 and revised in 2010.
3. UNCITRAL Conciliation Rules, adopted on 23 July 1980.
4. UNCITRAL Recommendations to assist arbitral institutions and other interested bodies with regard to arbitrations under UNCITRAL Arbitration Rules, adopted in 1982.
5. UNCITRAL Notes on Organizing Arbitral Proceedings, finalised in 1996.
6. UNCITRAL Model Law on International Commercial Conciliation with Guide to Enactment and Use, adopted on 24 June 2002.
7. UNCITRAL Model Law on International Commercial Arbitration 1985 with amendments as adopted on 7 July 2006.
8. UNCITRAL Recommendation regarding the interpretation of article II (2) and article VII (1) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), adopted on 7 July 2006.
9. Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules as revised in 2010, adopted on 2 July 2012.

# III. INTERNATIONAL PROTECTION OF CHILDREN AND OF VULNERABLE ADULTS, AND FAMILY MAINTENANCE

## J. International protection of children

*Conventions*

1. Hague Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations.

2. Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations.
3. Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.
4. Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.
5. Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.
6. Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.
7. Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations.

*Other*

8. Guide to Good Practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in four parts: I Central Authority Practice (2003); II Implementing Measures (2003); III Preventive Measures (2005); and IV Enforcement (2010) [and a range of other practical materials].
9. Transfrontier Contact Concerning Children, General Principles and Guide to Good Practice under the Hague 1980 Child Abduction and 1996 Protection of Children Conventions, published in 2008.
10. The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention, Guide to Good Practice, Guide No 1 (2008).
11. Guide to Good Practice on Mediation.
12. Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice, Guide No 2 under the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.
13. [Revised Draft] Practical Handbook on the operation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.
14. General Principles on Direct Judicial Communication in Family Law Matters.
15. Practical Handbook for Caseworkers under the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.
16. Ongoing Hague Conference work on the private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements.
17. Guide to Good Practice on Article 13(1)*b)* of the Hague 1980 Child Abduction Convention (ongoing).

## K. International protection of vulnerable adults

Hague Convention of 13 January 2000 on the International Protection of Adults.

## L. International family and family property relations

*Conventions*

1. Hague Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations.
2. Hague Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages.

3. Hague Convention of 14 March 1978 on the Law Applicable to Matrimonial Property Regimes.
   See also *supra* J.

*Other*

4. Ongoing Hague Conference work on jurisdiction, applicable law, and recognition and enforcement of judgments in respect of unmarried couples (Report published in March 2008).
5. Hague Conference feasibility study of cross-border mediation in family matters and ongoing work in the area, including in connection with cross-border recognition and enforcement of agreements in international family disputes.

## M. International inheritance

*Conventions*

1. Hague Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions.
2. Hague Convention of 2 October 1973 Concerning the International Administration of the Estates of Deceased Persons.
3. Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition (see *supra* F).
4. Hague Convention of 1 August 1989 on the Law Applicable to Succession to the Estates of Deceased Persons.
5. UNIDROIT Convention providing a Uniform Law on the Form of an International Will, Washington, DC, 26 October 1973.

*Other*

6. Ongoing Hague Conference work on jurisdiction and recognition and enforcement of decisions in matters of succession upon death.