Survey response	
Please indicate: [State:]	Argentina
Please indicate: [Region:]	Buenos Aires
Please indicate: [Affiliation:]	IntLaw LLP
Please indicate your profession:	Practitioner
Do you have practical expertise in cross-border civil or commercial litigation:	Yes
Press "Next" to continue	
1.1 What are your views on the scope of the Draft Text?	
1.2 Does the subject matter scope of the Draft Text cover those matters for which rules on parallel proceedings and related actions would be beneficial?	
1.3 What are your views on the subject matter exclusions in particular, and how they would work in practice? For example, what are your views on the formulation of the arbitration exclusion in Article 2(3)?	
1.4 What are your views on the geographical scope of the Draft Text and how it would work in practice? (See paragraph 16 for further information).	
2. What are your views on the definitions of parallel proceedings and related actions? In particular, please share your views on how these definitions might operate, and be applied by parties and courts, in practice.	A. Clarifying the standard for party identity in related actions 1. A first suggestion can be built into Article 3(1)(b)(i), which refers to proceedings involving “parties at least some of which are the same [, or substantially the same,] or connected to each other.” While this language reflects a clear intention to accommodate complex multiparty and multilevel disputes, the introduction of the notion of “substantially the same” parties raises questions of legal certainty. The Draft Convention does not clarify whether this expression is meant to capture formal identity, alignment of legal interests, control relationships within corporate groups, or procedural positioning within the proceedings. As a result, courts may diverge significantly in how they assess party similarity, creating uncertainty and opening space for strategic litigation behaviour. 2. Comparative practice illustrates both the usefulness and the risks of this formulation. In common law jurisdictions, the idea that parallel proceedings involve “substantially the same parties litigating substantially the same issues” is a familiar

	analytical tool in doctrines governing stays, dismissals, and restraint. In these jurisdictions, while references to “substantially the same parties” can be found in certain jurisprudence and arbitral doctrine in the context of parallel proceedings or abuse of process, these usages are highly context-specific and operate as pragmatic, case-by-case tests rather than as a defined legal standard. 3. At the same time, prominent international instruments such as the Brussels regime have taken a more restrictive approach, requiring strict identity of parties for lis pendens rules to apply, and explaining that “actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.” 4. Arbitral doctrine analysing parallel proceedings emphasises that the concept of “parallel proceedings” has evolved through practice, academic writing and soft law. Even where parallelism is described in terms of “the same or substantially the same parties,” the decisive element is not formal identity, but the existence of a meaningful connection grounded in core factual predicates. At the same time, arbitral commentary cautions that broad or indeterminate formulations, if left unguided, risk expanding the notion of parallel proceedings (in this case, related actions) beyond its functional rationale and blurring the line between genuinely connected disputes and merely similar proceedings. 5. Therefore, for this usually referenced concept (“substantially the same parties”), there is no unanimous definition in multilateral conventions or accepted doctrine of international procedural law. Therefore, the inclusion of this concept creates a risk of divergent interpretation by courts in Contracting States. 6. Against this background, clarification either by deleting the reference to “substantially the same” and relying on more objective connecting factors, or by articulating relevant criteria in the Explanatory Note would enhance predictability without sacrificing flexibility. B. Providing interpretative guidance on “material part” and “material fact” 7. A second set of suggestions arises from the repeated use of the notion of “materiality” in Article 3(1)(b)(ii) and (iii),

	which refer respectively to facts arising “in whole or in material part” from the same transaction or occurrence, and to common questions of law or “material fact.” Although materiality is a familiar concept in several legal systems, it does not carry a uniform meaning across jurisdictions. In this regard, the Draft provides no indication of how this threshold should be assessed. Courts are therefore likely to differ as to whether a fact is material because it is outcome-determinative, evidentially significant, or merely more than incidental. 8. Comparative guidance again reveals both functional parallels and potential ambiguities. Material could be defined as “important or having an important effect” while in common law civil procedure, particularly in the context of summary judgment, a material fact is understood as one capable of affecting the outcome of the case. Furthermore, civil law doctrines governing lis pendens and related actions, while not expressly invoking materiality, require a shared factual core that makes separate adjudication problematic. Additionally, arbitration practice similarly focuses on overlapping core facts that are central to the adjudication of the dispute Arbitral analyses of parallel proceedings, supports construing a “material fact” not as any overlapping factual element, but rather as a fact forming part of the essential factual matrix capable of influencing the determination of the claim. 9. The assessment of materiality is further complicated by the interpretation of the notion of the “same transaction or occurrence.” Judicial approaches vary as to whether this notion should be defined exclusively by reference to factual elements or whether shared legal issues may also be taken into consideration. By filtering the analysis through these alternative frameworks and by characterising disputed issues as matters of fact or law, courts may reach divergent conclusions on the existence of a material connection. The jurisprudence of the European Court of Human Rights on the principle of ne bis in idem offers useful guidance for determining when two cases may be regarded as parallel or related. In assessing whether two offences are the same, the Court has emphasised the relevance of

	“identical facts or facts which are substantially the same” that are “inextricably linked together in time and space.” Transposed to the context of the present instrument, this approach suggests that proceedings may be considered “related” where they are predicated on facts that are identical or substantially the same and closely connected in time and space, and where the rights or obligations of the parties to the proceedings are connected to one another by virtue of those facts. 10. These converging approaches suggest that materiality can be understood in functional terms, yet they also underline the need for explanation if such a concept is to operate uniformly under a future Convention. Explicit clarification, whether by defining materiality in the Explanatory Note or by adopting more precise language, would reduce interpretative variability and strengthen the predictability of Article 3’s application, particularly by clarifying that a material fact or part is one capable of influencing the determination of the claim. C. Adopting a single and preventive standard for conflicting judgments 11. The third suggestion concerns the bracketed reference in Article 3(1)(b)(iii) to the risk of “[irreconcilable] [inconsistent] findings or judgments.” The presence of both terms reflects uncertainty as to the intended standard and invites divergent interpretations. While irreconcilable judgments are generally understood as decisions that cannot coexist or be complied with simultaneously, inconsistent judgments encompass a broader category of outcomes that, although formally enforceable together, are logically or legally contradictory. 12. Arbitral scholarship identifies the risk of inconsistent decisions as the principal systemic concern raised by parallel proceedings. The most significant challenge posed by such proceedings is not limited to outcomes that are formally irreconcilable but extends to contradictory findings of fact or law that undermine coherence, predictability, and confidence in adjudicatory systems. This broader conception reflects a preventive coordination objective rather than a narrow focus on impossibility of simultaneous compliance. 13. Comparative instruments support a preference for the broader

	formulation. The 2019 HCCH Judgments Convention expressly adopts inconsistency as a relevant consideration in its grounds for refusal of recognition and enforcement, reflecting a preventive approach to conflicting outcomes rather than a narrow focus on impossibility of coexistence. By contrast, EU lis pendens regulation traditionally emphasizes irreconcilability as a downstream risk to be avoided, doing so within a stricter jurisdictional framework. In the context of the Draft Convention, which aims to promote early coordination of proceedings, broadly approaching related actions, the concept of inconsistent judgments appears better aligned with its policy objectives. 14. In light of these considerations, selecting a single term, preferably "inconsistent", would improve coherence, align the Draft Convention with existing HCCH instruments, and better support early coordination of proceedings regarding related actions.
3. What are your views on Article 4?	
4. What are your views on Article 5?	
5. What are your views on Articles 6 – 8 including how they will work in practice?	
6.1 What are your views on the 'jurisdiction / connection' list in Article 8(2)?	
6.2 Based on your experience, do you consider these factors appropriate for parallel proceedings i.e. for obliging courts to suspend or dismiss proceedings if they are not seised on the basis of one of these? Why or why not?	
6.3 Are there any additional factors that you believe should be included?	
7.1 What are your views on the approaches proposed in Article 9 for determining which court should adjudicate the dispute in cases of parallel proceedings which Articles 6 – 8 have not resolved?	
7.2 What are your views on how the two approaches may work in practice?	
7.3 Do you have a preference for either approach? If so, please explain why.	
8.1 What are your views on the factors listed in Article 10 for determining the more appropriate court in cases of parallel	

proceedings subject to Article 9 (i.e. that are not resolved by Articles 6 – 8)?	
8.2 Do you have any views on how Article 10 might work in practice?	
8.3 Are there additional considerations that, in your view, should be taken into account?	
9. Do you have an overall view on the effectiveness of the framework developed in the Draft Text for dealing with parallel proceedings in an international context? Please explain any advantages and / or disadvantages of the framework, and how you think it will work in practice.	
10. Do you have a view on the effectiveness of the framework developed in the Draft Text for dealing with related actions in an international context? Please explain any advantages or disadvantages of the framework, and how you think it will work in practice.	
11.1 What are your views on the practical operation (or the effectiveness) of the communication methods set out in Chapter IV of the draft text for use between courts seised, in cases involving parallel proceedings and related actions?	
11.2 Are there particular advantages and challenges you foresee in applying these methods?	
12. What are your views on the three safeguards provided in the Draft Text (Articles 19-21), particularly as to how they will operate in practice?	
13.1 Would the rules set out in the Draft Text achieve the objectives of a future instrument? The objective of a future instrument is to enhance legal certainty, predictability and access to justice by reducing litigation costs, and to mitigate inconsistent judgments in transnational litigation in civil or commercial matters.	
13.2 Do you have any views on whether the proposed rules set out in the Draft Text would improve the status quo?	
13.3 Do you consider there are any risks of tactical or satellite litigation arising from any of the provisions, or the overall approach of the Draft Text? Are these risks greater or	

fewer than those that currently exist? Are there any ways that such risks could be addressed in the Draft Text?	
14. What other comments, if any, do you have?	