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Hague Conference on Private International Law

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Conferencia de La Haya de Derecho Internacional Privado
 Persidangan Hague tentang Undang-Undang Antarabangsa Perundangan
 Conferenza dell'Haye di diritto internazionale privato
 Ха́йская конференция по международному частному праву
 Διεθνές της Χάγης για το Ιδιωτικό Διεθνές Δίκαιο
 Га́йская конференция с международного частного права
 Ха́йская Конференция по Международному Частному Праву
 Haagse Konventie van de Internationale Privatrecht
 Haagin kansallisuuden yksityisoikeuden konferenssi
 Haagskonferensen för internationell privaträtt
 Konferenca e Hages për të drejtën ndërkombetare private
 Конференція на Га́йге um ділі пріва́тнодичах ініціатива
 Konferenca ta' The Hague dwar il-Liġi Internazzjonali Privata
 Haagskonferensen for international privatrett
 Konferenca Haska Prawu Prywatnego Międzynarodowego
 Conferința de La Haya de Drept Internațional Privat
 Conferința de la Den Haag dal drept privat internațional
 Haagska konferenca mednarodného práva súkromného
 海牙国际私法会议
 헤이그 국제사법회의
 ハーグ国際私法会議
 Hagas tarptautinė privatis teisės konferencija
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 Haage Conferentie voor Internationaal Privaatrecht
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 Haager konferensen for international privatret
 مؤتمر لاهاي للقانون الدولي الخاص
 "האגה לתקנון בינלאומי פרטי
 Hägal Nemzetközi Magánjogi Konferencia
 Lahay Uluslararası Özel Hukuk Konferansı
 Hägas Starptautiskā privāttiesību konference
 3. Հայաստանի Հանրապետության Ժողովրդական պատգամավորների խորհուրդի
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 Ժողովրդական պատգամավորների խորհուրդի Ժողովը



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Recap on the basic purpose of the Convention

to ensure the effectiveness of choice of court agreements (also known as “forum selection clauses” or “jurisdictional clauses”) between parties engaged in international commercial transactions

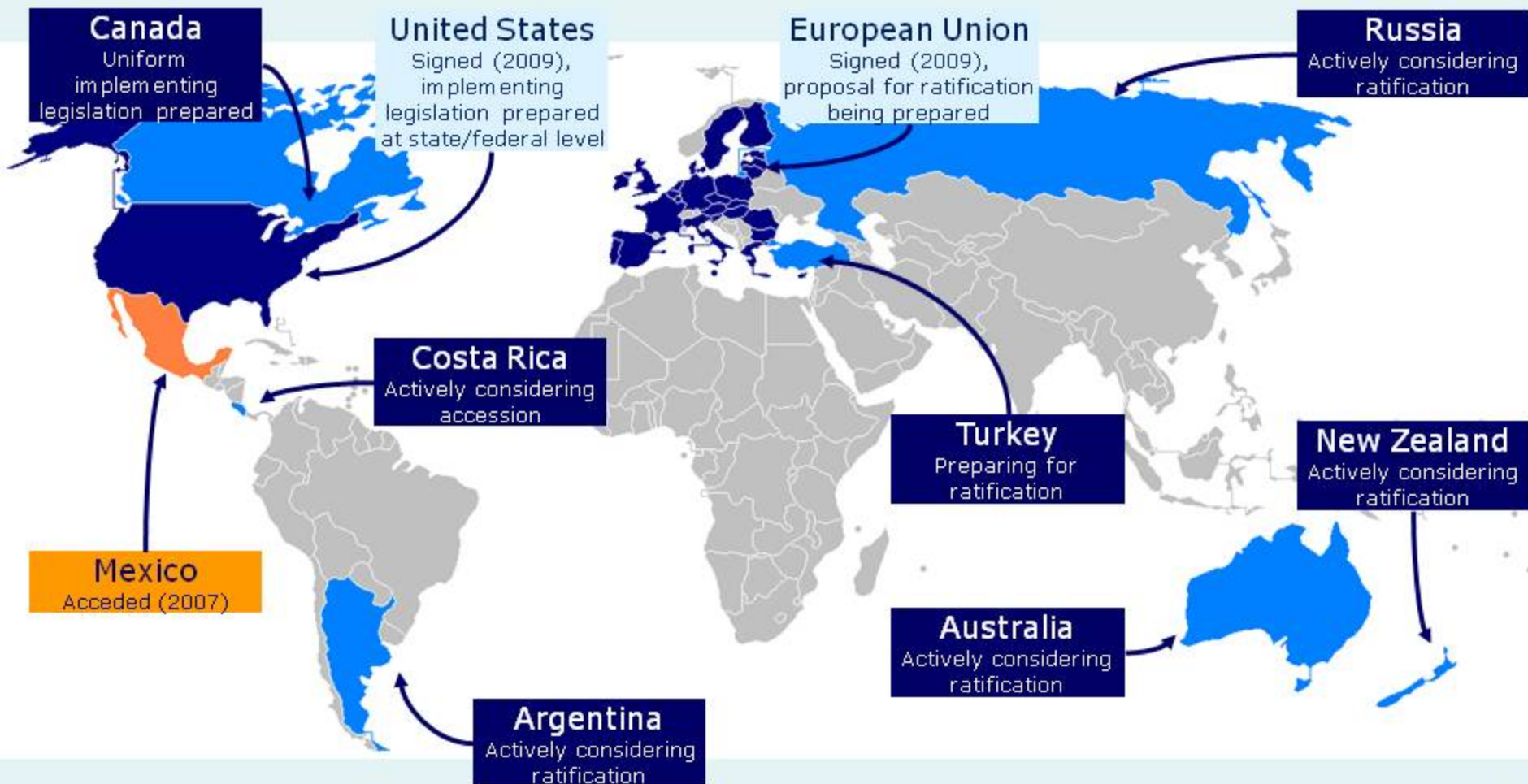
Benefits of the Convention

- Greater dispute resolution options for companies and individuals engaged in cross-border business.
- Simplifies the process for the resolution of cross-border disputes by reducing
 - the risk of litigation in an unfamiliar forum
 - not being able to enforce a judgment debt

Benefits of the Convention

- Promotes international trade and investment through enhanced judicial cooperation
 - *In a 2012 statement, the International Chamber of Commerce confirmed that by promoting greater certainty for cross-border business, the Convention should create a climate more favourable for international trade and investment.*
- First global litigation convention providing for clearly outlined conditions for the recognition and enforcement of foreign judgments in civil and commercial disputes

Recap on the Status of the Convention



Ongoing efforts of the Permanent Bureau

- **Priority for the Hague Conference to see the Convention's entry into force soon**
- In 2011, the Council on General Affairs and Policy of the Hague Conference stressed the importance of the Permanent Bureau's "ongoing efforts to promote the entry into force of the Convention of 30 June 2005 on Choice of Court Agreements."

Ongoing efforts of the Permanent Bureau

1. Implementation dialogue
2. Conferences and seminars around the globe
3. Dedicated section on the HCCH website
4. Implementation checklist
5. Monitoring States interest in joining the Convention
6. Post entry into force

Implementation dialogue

- ◀ Launched in 2010 in response to requests by several Members
- ◀ Purpose:
 - Enhance interaction between interested States, and within the Permanent Bureau on implementation issues; and
 - Circulate any materials prepared or gathered by States in relation to the Convention that might usefully be shared with other interested States

Implementation dialogue

- Means of communication is via email and the dialogue is a forum for informal discussion
- The Permanent Bureau has provided a number of suggested discussion topics based on initial consultations with participants
- Participants are free to suggest additional discussion topics that relate to implementation issues
- So far, participants include:
 - EU, US, Argentina, Australia, Canada, Costa Rica, Germany, Mexico, New Zealand, Serbia and Ukraine

Conferences and seminars around the world

Promotion activities at a regional level

- *November 2010 – Joint seminar in Brasilia (Brazil) with MERCOSUR Contracting and Associated States; organised by the HCCH and the Brazilian Ministry of Justice*



- *Now this Conference in Wuhan*

Conferences and seminars around the world

◀ **Some seminars the Permanent Bureau has presented at on the Choice of Court Convention this year alone:**

- International Conference "Fostering Co-operation through Hague Conventions", Tbilisi, Georgia, 26-28 February 2013
- The Dutch-Russian Seminar on Legal Co-operation "Better Justice, Better Business", The Hague, Netherlands, 6 March 2013
- Seminar "Choice of Court Agreements Convention 2005 and the Hague Conference Asia Pacific Regional Office", Canberra, Australia, 20 August 2013
- International Conference 5th Journal of Private International Law Conference, Madrid, Spain, 12-13 September 2013

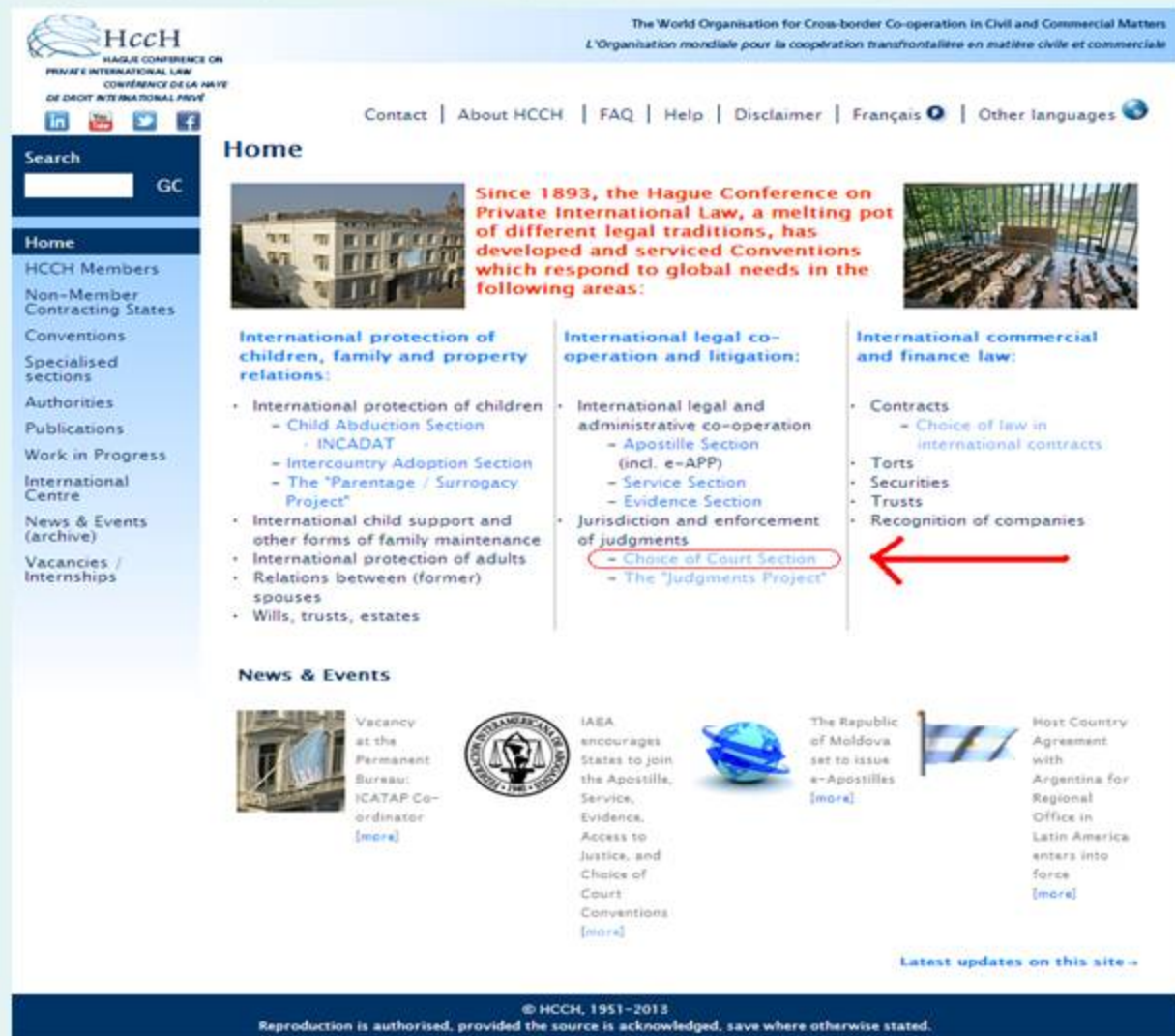
Conferences and seminars around the world

- ← **Collaborating with relevant organisations for future conferences and seminars**
 - ← ASEAN
 - ← APEC
 - ← World Bank
 - ← International Chamber of Commerce

Dedicated Website

Access to:

1. Text of the Convention
2. Recommended Form
3. Explanatory documents
4. Implementation tools
5. News & Events
6. Preparatory Work
7. Bibliography



The screenshot shows the official website of the Hague Conference on Private International Law (HCCH). The header includes the HCCH logo and the organization's name in English and French. A navigation bar at the top right contains links for Contact, About HCCH, FAQ, Help, Disclaimer, Français, and Other languages. A search bar is located on the left side of the main content area. The main content area is titled "Home" and features a large banner with the text: "Since 1893, the Hague Conference on Private International Law, a melting pot of different legal traditions, has developed and serviced Conventions which respond to global needs in the following areas:". Below this banner, there are three columns of text, each with a corresponding image. The first column is titled "International protection of children, family and property relations:" and lists several areas of work, including Child Abduction Section, Inter-country Adoption Section, and The "Parentage / Surrogacy Project". The second column is titled "International legal co-operation and litigation:" and lists areas such as Apostille Section, Service Section, Evidence Section, and Jurisdiction and enforcement of judgments. The third column is titled "International commercial and finance law:" and lists areas like Contracts, Torts, Securities, Trusts, and Recognition of companies. A red arrow points from the "Choice of Court Section" link in the second column to the "Latest updates on this site" link at the bottom right. The footer of the website contains the copyright notice "© HCCH, 1951-2013" and a statement: "Reproduction is authorised, provided the source is acknowledged, save where otherwise stated."

HCCH
HAGUE CONFERENCE ON
PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAIE
DE DROIT INTERNATIONAL PRIVÉ

The World Organisation for Cross-border Co-operation in Civil and Commercial Matters
L'Organisation mondiale pour la coopération transfrontalière en matière civile et commerciale

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News & Events (archive)
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Since 1893, the Hague Conference on Private International Law, a melting pot of different legal traditions, has developed and serviced Conventions which respond to global needs in the following areas:

International protection of children, family and property relations:

- International protection of children
 - Child Abduction Section
 - INCADAT
 - Inter-country Adoption Section
 - The "Parentage / Surrogacy Project"
- International child support and other forms of family maintenance
- International protection of adults
- Relations between (former) spouses
- Wills, trusts, estates

International legal co-operation and litigation:

- International legal and administrative co-operation
 - Apostille Section (incl. e-APP)
 - Service Section
 - Evidence Section
- Jurisdiction and enforcement of judgments
 - Choice of Court Section
 - The "Judgments Project"

International commercial and finance law:

- Contracts
 - Choice of law in international contracts
- Torts
- Securities
- Trusts
- Recognition of companies

News & Events

Vacancy at the Permanent Bureau: ICATAP Co-ordinator [more]

IASA encourages States to join the Apostille, Service, Evidence, Access to Justice, and Choice of Court Conventions [more]

The Republic of Moldova set to issue e-Apostilles [more]

Host Country Agreement with Argentina for Regional Office in Latin America enters into force [more]

Latest updates on this site →

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Implementation checklist

- ◀ In 2011, the Permanent Bureau, in consultation with the HCCH Members, created an implementation checklist for States interested in joining the Convention



- ◀ Purpose:
 - To highlight some of the issues which may need to be considered by a State when implementing the Convention

Implementation checklist overview

❑ Preliminary Steps

- ✓ Consult with the Permanent Bureau and other Contracting States on implementation matters.
- ✓ Consult with key stakeholders and subject matter experts to determine the method and implications of becoming a Party, the best methods for implementing the Convention, and develop a plan for implementation and operation of the Convention.

❑ Bringing the Convention into force within your State's internal legal system

- ✓ Consider how the Convention will be given force of law within the internal legal order of your State.
- ✓ Review internal laws and practices to ensure that existing provisions are not inconsistent with the Convention.

Implementation checklist overview

← Key provisions that may require specific legislative enactment:

- Definitions
 - Article 2 – Definition of consumer and employment
 - Article 3 – Exclusive choice of court agreements
 - Article 4 – Definitions of judgment and resident
- Basic rules:
 - Article 5 – Jurisdiction of the chosen court
 - Article 6 – Obligation of a court not chosen
 - Article 8 – Recognition and enforcement

Implementation checklist overview

☐ **Determining how to become a party – signature / ratification or accession.**

- ✓ Determine the method for becoming a party – signature followed by ratification or otherwise accession.
- ✓ Take the required steps to become a Party.

☐ **Territorial extension of the Convention**

- ✓ Ascertain the competence of any territorial units in which different systems of law apply over matters governed by the Convention.
- ✓ Determine whether to make a declaration concerning the territorial extension of the Convention.
- ✓ Notify the depositary of any declaration made.

Implementation checklist overview

Developing a timetable

- ✓ Determine the date on which the Convention will enter into force for the relevant State.
- ✓ Ensure that by the entry into force date the appropriate implementing measures are in place and that no existing internal law or practice creates an obstacle for the effective implementation and operation of the Convention.
- ✓ Factor in timing for communication with relevant stakeholders regarding the Convention entering into the force.

Communication

- ✓ Make certain that all key stakeholders are informed sufficiently in advance of the entry into force date, any resulting changes to relevant internal law and practice, and changes to the respective roles of courts and government departments under the Convention.
- ✓ Ensure that adequate training is provided to individuals involved in the domestic application of the Convention.

Implementation checklist overview

Declarations

- ✓ Consider the need to make any of the optional declarations provided for under the Convention
 - ✓ Art 19 - limiting jurisdiction where a case is wholly foreign to the State concerned.
 - ✓ Art 20 - limiting recognition and enforcement of foreign judgments where a case is wholly domestic to the State concerned.
 - ✓ Art 21 - excluding specific matters from the application of the Convention
 - ✓ Art 22 - on non-exclusive choice of court agreements
 - ✓ Art 26(5)) - on priority of treaties
- ✓ Notify the depositary of any declaration made.

Ongoing review processes

- ✓ Develop and implement mechanisms to monitor and evaluate the application and functioning of the Convention.

Other ongoing activities of the Permanent Bureau

- Keeping up to date on the status of the Convention in each interested State (e.g., U.S., E.U., Australia, Brazil, Canada, Costa Rica, New Zealand, Paraguay, Russia, Serbia, Ukraine and others)
- Support States with the implementation of the Convention through missions and ongoing consultations with States
- Publications for promotion of the Convention *e.g.*, brochure on international civil procedure

Post entry into force activities

- If mandated by the Council on General Affairs and Policy:
 - preparation of future publications such as, guides to good practice and practical handbook on the Convention
 - Case law database
- Secretary General can make arrangements for the regular review of the practical operation of the Convention, which will take the form of meetings of Contracting States and other interested States (Art 24)

Future activities

The Hague Conference welcomes any suggestions for future activities regarding the implementation and promotion of the Convention

Thank you

Questions?

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