

GLOSSARY OF COMMONLY USED TERMS AND REFERENCES

prepared by the Permanent Bureau

* * *

GLOSSAIRE DES TERMES FRÉQUEMMENT UTILISÉS ET DES RÉFÉRENCES

établi par le Bureau Permanent

*Document for the attention of the Special Commission
of June 2016 on the Recognition and Enforcement of Foreign Judgments*

*Document à l'attention de la Commission spéciale
de juin 2016 sur la reconnaissance et l'exécution des jugements étrangers*

For ease of reference, each instrument / document may be accessed online by clicking the short title of the instrument / document.

1. Hague Conference instruments

“[1961 Apostille Convention](#)”:

Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.

“[1965 Service Convention](#)”:

Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

“[1970 Evidence Convention](#)”:

Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

“[1971 Enforcement of Judgments Convention](#)”:

Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.

“[1971 Supplementary Protocol](#)”:

Supplementary Protocol of 1 February 1971 to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.

“[1996 Child Protection Convention](#)”:

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.

“[2000 Protection of adults Convention](#)”:

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

“[2005 Choice of Court Convention](#)”:

Convention of 30 June 2005 on Choice of Court Agreements.

“[2006 Securities Convention](#)”:

Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary.

“[2007 Child Support Convention](#)”:

Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

“[2007 Maintenance Obligations Protocol](#)”:

Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations.

2. Hague Conference publications (Explanatory Reports)

“[Borrás / Degeling Report](#)”:

A. Borrás and J. Degeling, with the assistance of W. Duncan and P. Lortie, “Explanatory Report on the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance”, Text adopted by the Twenty-First Session (2007).

“[Nygh / Pocar Report](#)”:

“Preliminary draft Convention on jurisdiction and foreign judgments in civil and commercial matters, adopted by the Special Commission and Report by Peter Nygh and Fausto Pocar”, Preliminary Document No 11 of August 2000 for the attention of the Nineteenth Session of June 2001, in *Proceedings of the Twentieth Session (2005)*, Tome II, *Judgments*, Cambridge – Antwerp – Portland, Intersentia, 2013, pp. 207-313.

[“Hartley / Dogauchi Report”](#):

T. Hartley and M. Dogauchi, “Explanatory Report on the 2005 Hague Choice of Court Agreements Convention”, in *Proceedings of the Twentieth Session (2005)*, Tome III, *Choice of Court*, Antwerp – Oxford – Portland, Intersentia, 2010, p. 785.

3. Preparation of a future Convention

[“1999 preliminary draft Convention”](#):

“Preliminary draft Convention on jurisdiction and foreign judgments in civil and commercial matters, adopted by the Special Commission and Report by Peter Nygh and Fausto Pocar”, Preliminary Document No 11 of August 2000 for the attention of the Nineteenth Session of June 2001, in *Proceedings of the Twentieth Session (2005)*, Tome II, *Judgments*, Cambridge – Antwerp – Portland, Intersentia, 2013, p. 191.

[“2001 Interim Text”](#):

“Summary of the Outcome of the Discussion in Commission II of the First Part of the Diplomatic Conference 6-20 June 2001 – Interim Text”, prepared by the Permanent Bureau and the Co-reporters, in *Proceedings of the Twentieth Session (2005)*, Tome II, *Judgments*, Cambridge – Antwerp – Portland, Intersentia, 2013, p. 621. The Interim Text consolidates the Working Documents submitted during the Nineteenth Session that proposed amendments to the preliminary draft Convention.

[“Proposed Draft Text”](#):

Proposed Draft Text of the Working Group on the Judgments Project emanating from its fifth meeting (Annex to Prel. Doc. No 7A of November 2015 for the attention of the Council on General Affairs and Policy of March 2016 and Prel. Doc. No 1 of April 2016 for the attention of the Special Commission of June 2016 on the Recognition and Enforcement of Foreign Judgments).

4. Other international and regional instruments

[“1958 New York Convention”](#):

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

[“Vienna Convention on the Law of the Treaties \(VCLT\)”](#):

Vienna Convention on the Law of Treaties (Vienna, 23 May 1969), United Nations, Treaty Series, Vol. 1155, p. 331.

[“CISG”](#):

United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980).

5. Terminology used

“Court addressed”:

The court which is asked to recognise or enforce a judgment.

“Court of origin”:

The court which rendered the judgment.

“Enforcement”:

The Hartley / Dogauchi Report defines “enforcement” as the application of the legal procedures of the court addressed to ensure that the defendant obeys the judgment given by the court of origin (para. 170).

“Ground for refusal”:

A circumstance in which the recognition or enforcement of a judgment otherwise entitled to recognition and enforcement may be refused.

“Jurisdictional filters”:

Also called “indirect grounds of jurisdiction”. Criteria for determining whether a judgment is entitled to recognition and enforcement.

“Jurisdictional gap”:

Situation where the court of a State will assert jurisdiction on a different set of bases (“direct” jurisdiction) than it would recognise as valid when assessing whether to recognise a foreign judgment (“indirect” jurisdiction).

“Recognition”:

The Hartley / Dogauchi Report defines “recognition” as the court addressed giving effect to the determination of the legal rights and obligations made by the court of origin (para. 170).

“Requested State”:

The State in which the court addressed is situated. The same term is used in the 2005 Choice of Court Convention.

“State of origin”:

The State in which the court of origin is situated.