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PROJETS RELATIFS AUX CONVENTIONS SUR LES ENFANTS, LES ALIMENTS, LES ADULTES ET LA COHABITATION – PROGRAMME POUR 2009-2010

Note établie par le Bureau Permanent

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PROJECTS CONCERNING THE CHILDREN'S CONVENTIONS, MAINTENANCE, ADULTS AND COHABITATION – PLANNING FOR 2009-2010

Note submitted by the Permanent Bureau

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INTRODUCTION

This document summarises the programme of work in the fields of international child protection and family law in which the Permanent Bureau is currently engaged. The document, which is an updated version of similar documents presented to meetings of the Special Commission on General Affairs and Policy of the Conference in 2003, 2004, 2005 and 2006, and of the Council of 2007 and 2008,[1] sets out a timetable for certain projects and comments on the sources of funding for each project (cross-referenced to the Supplementary Budget for Financial Year LV (1 July 2009 – 30 June 2010)).[2]

The mandate for the work relating to the *Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* derives in part from Recommendations adopted at the Twenty-First Session on 23 November 2007 (see Final Act of the Twenty-First Session, Part C). This work has so far been funded under the Supplementary Budget.

The mandate for much of the work relating to the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and 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* derives from the Fifth meeting of the Special Commission to review the operation of the 1980 Convention and to address implementation issues concerning the 1996 Convention, which took place in The Hague from 30 October to 9 November 2006.[3] The Special Commission, attended by 66 States, agreed 57 Conclusions and Recommendations, with implications both for the Regular and Supplementary Budgets of the Hague Conference.

Various projects concerning the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* were approved by the Special Commission meeting to review the practical operation of that Convention in November 2000. A second Special Commission meeting to review the practical operation of the Convention of 1993 of September 2005 reaffirmed the work programme and approved further projects.[4] The programme of work is funded partly from the Regular and partly from the Supplementary Budget.

The majority of the work programme set out in Part I of the document arises from specific conclusions and instructions given by Meetings of the Special Commission. Part II of the document refers to technical assistance and training operating under the Children's Conventions.

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[1] See Prel. Doc. No 4 of March 2003 for the attention of the Special Commission of April 2003 on General Affairs and Policy of the Conference; No 12 of February 2004 for the attention of the Special Commission of April 2004 on General Affairs and Policy of the Conference; No 28 of March 2005 for the attention of the Special Commission of March / April 2005 on General Affairs and Policy of the Conference; No 2 of February 2006 for the attention of the Special Commission of April 2006 on General Affairs and Policy of the Conference; No 13 of March 2007 for the attention of the Council of April 2007 on General Affairs and Policy of the Conference; and No 3 of February 2008 for the attention of the Council of April 2008 on General Affairs and Policy of the Conference respectively.

[2] Prel. Doc. No 10 of March 2009 for the attention of the Council of March / April 2009 on General Affairs and Policy of the Conference.

[3] See "Conclusions and Recommendations of the Fifth Meeting of the Special Commission to Review the Operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the Practical Implementation 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* (30 October-9 November 2006)". The original mandate for certain projects derives from earlier Special Commission meetings. See, in particular, "Conclusions and Recommendations of the Fourth Meeting of the Special Commission to Review the Operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (22–28 March 2001)".

[4] See "Conclusions and Recommendations of the Second Meeting of the Special Commission to Review the Operation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption* (17-23 September 2005)".

PART I	
THE HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION and 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 **Implementation of Conclusions and Recommendations from the Fifth meeting of the Special Commission to review the operation of the 1980 Convention and implementation issues concerning the 1996 Convention[5] (October / November 2006)** **and** **preparations for the Sixth meeting of the Special Commission to review the operation of the 1980 Convention and implementation issues concerning the 1996 Convention (tentative 2011)**	
1. Development of Guides to Good Practice, Handbooks, and Checklists under the 1980 and 1996 Conventions	
a) Under the 1980 Convention:	
Part I (Central Authority Practice) Part II (Implementing Measures) Part III (Preventive Measures) General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children	Parts I, II and III have been published and distributed in English, French and Spanish. The General Principles have been published in English and French, and will soon be published in Spanish. Part III and the General Principles have been translated into Arabic. It is hoped for the complete set (Parts I-III and the General Principles) to be published in English, French, Spanish and Arabic by the end of 2009. See Supplementary Budget 2009-2010, Article 11. *See also infra Point 4 under Mediation.*

[5] The Conclusions and Recommendations from the Fifth Meeting of the Special Commission to review the operation of the 1980 Convention are available on the Hague Conference website at < www.hcch.net > under "Conventions" then "Convention 28" and "Practical Operation Documents". The Special Commission took place 30 October - 9 November 2006. General preparations for Special Commissions are funded from the Regular Budget of the Hague Conference, as are the Special Commissions themselves. The provision of Spanish interpretation during the Special Commission and the translation of preliminary documents were funded by contributions to the Supplementary Budget.

Part IV (Enforcement of return / access orders)	See Recommendation No 1.5.2 of the Fifth Special Commission. A draft of the Guide has been completed and will be circulated to an expert group. The Draft Guide will then be circulated to Member States and Contracting States for their comments. Publication is expected by mid-2009. See Supplementary Budget 2009-2010, Article 11.
b) Under the 1996 Convention: Checklist on the implementation of the 1996 Convention Handbook on the practical operation of the 1996 Convention General Principles and Guide to Good Practice on Transfrontier Contact Concerning Children	A first draft of the Checklist has been completed and will be circulated in the near future to Members, Contracting States to the 1980 and 1996 Conventions, as well as the States known to be considering implementation of the 1996 Convention. Eventually the Checklist will be published as part of the Handbook on the Practical Operation of the 1996 Convention (see below). See Supplementary Budget, 2009-2010, Article 18. A first draft of the Handbook has been completed. The draft will be circulated to a group of experts in the near future. As then modified, the draft will be circulated for comments to Members and Contracting States by mid-2009, with a target publication date by early 2010. See Supplementary Budget, 2009-2010, Article 19. See *supra* 1 a.
2. The development of a standard form of Country Profile for Contracting States to the 1980 Convention	
This work will include revision of the Questionnaire for Newly Acceding States	Recommendation No 1.1.11 of the Fifth Special Commission. The project to develop a Country Profile for the Convention is currently in preliminary stages and consultation with a limited number of Contracting States will take place in 2009. It is

	anticipated that a Country Profile form will be presented to the Special Commission in 2011 for consideration. See Supplementary Budget 2009-2010, Article 17.
3. Direct Judicial Communications	
	Draft report confirmed by the Fifth Special Commission.[6] Recommendation No 1.6.7 of the Special Commission.
a) Promoting the designation of Judges to the International Hague Network of Judges (IHNJ) by disseminating the Conclusions and Recommendations of the Joint EC-HCCH Conference of January 2009	Ongoing.
b) Maintaining, updating and up-grading the list of Members of the IHJN	Ongoing.
c) Continued consultations and development of practical mechanisms and structures in respect of the IHNJ (including regional networks)	Recommendation No 1.6.7 of the Special Commission. Ongoing.
d) Continued development of an inventory of existing practices relating to direct judicial communications in specific cases under the 1980 Hague Convention and with regard to international child protection	Recommendation No 1.6.7 of the Special Commission. Ongoing.
e) Further development of the Draft General Principles concerning direct judicial communications with a view to submitting the Principles to the Sixth Meeting of the Special Commission on the 1980 Convention	Recommendation No 1.6.7 of the Special Commission. Ongoing. Following the January 2009 Expert Meeting in Brussels, the draft will be circulated for further amendments. Consultation will then be undertaken with experts including Members of the IHNJ and Bar Associations. A second

[6] P. Lortie, "Report on Judicial Communications in relation to International Child Protection", Prel. Doc. No 8 of October 2006 for the attention of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.

	meeting of experts could be called at the beginning of 2010 to work on the next version. It is anticipated that a formal version could be circulated in mid-2010 to Member States and States Parties to the 1980 and 1996 Conventions for consultation. See Supplementary Budget 2009-2010, Article 14.
f) Exploration of the development of a secured system of communications for members of the International Hague Network of Judges	Recommendation No 1.6.7 of the Special Commission. Ongoing.
4. Mediation in Cross-Border Family Matters	
a) Permanent Bureau to keep States informed of developments in the mediation of cross-border disputes concerning contact and abduction[7]	Recommendation No 1.3.3 of the Fifth Special Commission. See Preliminary Document No 10 for the attention of the Council of April 2008 on General Affairs and Policy.
b) Development of a Guide to Good Practice on Mediation under the 1980 Convention	Group of experts on international mediation currently being consulted. Draft Guide to be completed by the Permanent Bureau by the beginning of 2010, and then circulated to Contracting States for comments. Final draft to be circulated to Contracting States in the second half of 2010 for consideration at the Special Commission meeting in 2011. See Supplementary Budget 2009-2010, Article 12.
5. The International Child Abduction Database (INCADAT)	
a) Continued expansion of the substantive legal coverage, co-operation with INCADAT	Ongoing.

[7] "Feasibility study on cross border mediation in family matters" drawn up by the Permanent Bureau, Prel. Doc. No 20 of March 2007 for the attention of the Council of April 2007 on General Affairs and Policy of the Conference which includes as an Annex the "Note on the development of mediation, conciliation and similar means to facilitate agreed solutions in transfrontier family disputes concerning children especially in the context of the Hague Convention of 1980" drawn up by S. Vigers, Former Legal Officer of the Permanent Bureau, Prel. Doc. No 5 of October 2006 for the attention of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.

correspondents, ongoing updating and checking of translations and expansion of the non-Hague Convention page	
b) Continued development of the Spanish module including the Inter-American section	Ongoing.
c) Revision of the INCADAT website and website content: new design of the INCADAT web pages; introduction of various new pages, *inter alia,* a Case Law Analysis Section; improvement of the search function	Until summer 2009.
d) Creation of a new INCADAT maintenance tool to allow for more time and cost effective administration of the growing database	Until summer 2009.
e) INCADAT Correspondent Meeting	Spring 2010. See Supplementary Budget 2009-2010, Article 15 *c)* (ii).
6. The International Child Abduction Statistical Database (INCASTAT)	
- Ongoing work to promote the use of the system by Central Authorities designated under the 1980 Hague Convention	Recommendation No 1.1.18 of the Fifth Special Commission. INCASTAT was launched on 28 September 2007. Ongoing work to develop a form for Convention States to report statistics on Non-Hague States. See Supplementary Budget 2009-2010, Article 15 *a)-b)*.
7. iChild Case Management System	
- Ongoing efforts to promote and implement the system in Central Authorities designated under the 1980 Hague Convention	Recommendation No 1.1.17 of the Fifth Special Commission. Ongoing with WorldReach Software of Canada which has developed the Software in co-operation with HCCH.

	See Supplementary Budget 2009-2010, Article 15 *a)*.
8. The Judges' Newsletter on International Child Protection	
a) Consultation with Editorial Board; soliciting material; writing and editing; co-ordination with publisher; maintenance and updating of distribution list	Recommendation No 1.6.9 of the Fifth Special Commission. This project has been supported by Butterworths Legal Publishers. Regular bi-annual publication (autumn and spring).
b) Translation into languages other than English / French	For Spanish translation see Supplementary Budget 2009-2010, Article 13 *a)*. For Arabic translation see Supplementary Budget 2009-2010, Article 13 *b)*.
9. Updating of standard request for return form in consultation with Contracting States	
	Recommendation No 1.1.14 of the Fifth Special Commission. A first draft has been completed and will be circulated to a number of Contracting States for consultation purposes. An updated version will be presented for approval to the Special Commission in 2011. See Supplementary Budget 2009-2010, Article 10.
10. Development of a Questionnaire for Member States and Contracting States to prepare for the 2011 Special Commission	
	Development of a fact-finding Questionnaire in preparation for the 2011 Special Commission will begin in early 2009. It will focus on the operational aspects of the 1980 and 1996 Conventions, and include a questionnaire section on the effectiveness of the Guides to Good Practice under the 1980 Convention. See Supplementary Budget 2009-2010, Article 10.

11. Consent to Travel Form	
Explore feasibility and development of standardised or recommended permission [to travel with child] or consent form in consultation with Contracting States and relevant international organisations	Recommendation No 1.2.3 of the Fifth Special Commission. To begin consultations with Consular Services in a limited number of States Parties.
12. Development of a Children's Guide to the 1980 Convention	
	Feasibility being considered in co-operation with REUNITE International Child Abduction Centre. Consultations to begin immediately. See Supplementary Budget 2009-2010, Article 16.
13. International conference in respect of relocation issues	
	Judicial Conference to be regional in cooperation with ICMEC in the first part of 2010. See Supplementary Budget 2009-2010, Article 20.
14. Research on a possible Protocol to the 1980 Convention	
	The March / April 2009 Council on General Affairs and Policy of the Conference will determine if further work will be undertaken in respect of a possible Protocol to the 1980 Convention. See Work programme of the Permanent Bureau for the next Financial Year (1 July 2009 – 30 June 2010).[8] See Supplementary Budget 2009-2010, Article 10.

[8] Prel. Doc. No 2 of February 2009 for the attention of the Council of March / April 2009 on General Affairs and Policy of the Conference.

THE HAGUE CONVENTION OF 29 MAY 1993 ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION **Implementation of the Conclusions and Recommendations of the Second meeting of the Special Commission to review the practical operation of the 1993 Convention[9] and preparations for the next Special Commission (tentative June 2010)**	
15. The Guide to Good Practice	
a) Publication of a Guide to Good Practice on Implementation	The Guide was published in English and French and distributed to all Member States and Contracting States. The Spanish version will be available in the near future.
b) Preparation of a Guide to Good Practice on Accreditation and a set of model criteria	Ongoing. Recommendation No 4 of the 2005 Special Commission. See Supplementary Budget 2009-2010, Article 21.
c) Research into possible additional Chapters (*e.g.* financial aspects, reports on prospective adoptive parents, preparation of prospective adoptive parents, and post-adoption reports)	Ongoing. Recommendation No 2 of the 2005 Special Commission. See Supplementary Budget 2009-2010, Article 21.
d) Spanish translation of additional parts of the Guide	See Supplementary Budget 2009-2010, Article 21 *b).*
16. Development of a model form for the consent of the child (Art. 4 *d)*(3)) as well as model forms or protocols regarding the operation of Articles 15 and 16 of the Convention	Ongoing. Recommendation No 7 of the 2005 Special Commission.
17. Expansion of the Adoption section of the website including the development of country profiles (including, *inter alia*, procedures, website addresses and how the various responsibilities and tasks under the Convention are divided between Central Authorities, public authorities, accredited	Ongoing. Recommendation No 8 of the 2005 Special Commission.

[9] The Special Commission took place on 17-23 September 2005, including a one day meeting on accreditation issues. The Report of the Special Commission and Conclusions and Recommendations are available on the Hague Conference website at < www.hcch.net > under "Conventions" then "Convention 33" and "Practical Operation Documents". General preparations for Special Commissions are funded from the Regular Budget of the Hague Conference, as are the meetings of the Special Commissions themselves. The provision of Spanish interpretation during the Special Commission and the translation of preliminary documents were funded by contributions to the Supplementary Budget.

bodies and any bodies and persons)	
18. Development of a model form re post-adoption reporting	Ongoing. Recommendation No 18 of the 2005 Special Commission.
19. Development of ICASTAT (the intercountry adoption statistical database)	Ongoing work with expert group. See Supplementary Budget 2009-2010, Article 22.
20. Fundraising to support the next Meeting of the Special Commission (tentative June 2010)	Immediate.
a) Travel and *per diem* fund to provide financial assistance to States to permit their participation	See Supplementary Budget 2009-2010, Article 23 *a)*.
b) Spanish interpretation during the meeting of the Special Commission and translation of Preliminary Documents into Spanish	See Supplementary Budget 2009-2010, Article 23 *b)-d)*.
THE HAGUE CONVENTION OF 13 JANUARY 2000 ON THE INTERNATIONAL PROTECTION OF ADULTS	
21. Preparation of publicity material	Ongoing.
THE HAGUE CONVENTION OF 23 NOVEMBER 2007 ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE **Implementation of the Conclusions included in the Final Act of the Twenty-First Session, 23 November 2007 and preparations for the Special Commission on Implementation of the Convention of November 2009**	
22. Explanatory Report	It is planned to have a final draft of the Explanatory Report on the Convention prepared for circulation to delegations for their approval in May 2009. See Minutes of the Plenary Session of the Diplomatic Session.

23. Development of a Guide on implementation of the Maintenance Convention	The drawing up of the Guide is underway. Draft Guide to be circulated for the purpose of the November 2009 Special Commission by July 2009. See Minutes of Commission I of the Diplomatic Session. See Supplementary Budget 2009-2010, Article 3.
24. Development of a Practical Handbook for case workers on the operation of the Maintenance Convention	The drawing up of the Practical Handbook is underway. Draft to be circulated for the purpose of the November 2009 Special Commission by July 2009. See Minutes of Commission I of the Diplomatic Session. See Supplementary Budget 2009-2010, Article 4.
25. Continuation of the work of the Administrative Co-operation Working Group (ACWG) - 4 Conference calls	See Final Act. Ongoing. See Supplementary Budget 2009-2010, Article 5.
26. Continuation of the work of the Forms Working Group (Co-ordinated by the Permanent Bureau) - 8 Conference calls	See Final Act. Ongoing. See Supplementary Budget 2009-2010, Article 6.
27. Continued development of the Country Profile - 4 conference calls - Finalisation of the web-base Country Profile (after the November 2009 Special Commission)	Ongoing. See Final Act. See Supplementary Budget 2009-2010, Article 7.
28. iSupport (electronic case management and Internet based communication system for the international recovery of maintenance) - Preliminary work to devise, in consultation with interested States, functional and technical requirements for the system and its design - Preliminary work to devise a tendering process for the development of the software *per se*	See Recommendation No 6 of the Special Commission on General Affairs and Policy of the Conference of April 2006. Ongoing (to be completed before the Special Commission on the implementation of the new Convention). See Supplementary Budget 2009-2010, Article 8.

- Preliminary work to devise a funding strategy to operate and maintain the system	
29. Preparation of publicity materials	Ongoing.
30. Feasibility study on a possible Protocol to the 2007 Convention to deal with the international recovery of maintenance in respect of vulnerable persons	See Final Act. Ongoing. Questionnaire prepared. Study to be completed before November 2009 Special Commission.
THE HAGUE PROTOCOL OF 23 NOVEMBER 2007 ON THE LAW APPLICABLE TO MAINTENANCE OBLIGATIONS	
31. Explanatory Report	It is planned to have a final draft of the Explanatory Report on the Protocol prepared for circulation to delegations for their approval in April 2009. See Minutes of the Plenary Session of the Diplomatic Session.
CO-HABITATION OUTSIDE MARRIAGE	
32. Co-habitation outside marriage	
Update of the scientific report presented in May 2000	See Preliminary Document No 11 for the attention of the Council of April 2008 on General Affairs and Policy.

PART II	
DEVELOPMENTAL PROGRAMMES AND TECHNICAL ASSISTANCE PROGRAMMES TO SUPPORT THE EFFECTIVE IMPLEMENTATION OF THE HAGUE CONVENTIONS	
33. Convention-specific initiatives	
a) Intercountry Adoption Technical Assistance Programme (ICATAP) The provision of information, training and support to targeted States in the first stages of implementation or those States experiencing difficulties	Ongoing. See Supplementary Budget 2009-2010, Part II, Article A.1.
Seminar for French-Speaking States in respect of ICA	June 2009.
b) International Child Abduction Implementation assistance for States experiencing difficulties	See Supplementary Budget 2009-2010, Part II, Article A.2.
34. International and regional initiatives – technical assistance and programmes to support effective implementation	Funded from external sources and by participant States. See Supplementary Budget 2009-2010, Part II in general.
a) The Special Programme for Latin American States	Continuation of Phase V of the Special Programme including in respect of the 1980 Convention: transfrontier access / contact, coordination of joint IIN / HCCH actions[10] including the model law of procedure and preliminary study on the 1996 Convention, and judicial communications;

[10] See the Conclusions and Recommendations, Inter-American Expert Meeting on International Child Abduction, which was held in The Hague on 10 November 2006, available on the Hague Conference website, < www.hcch.net>, under "Specialised Sections", then "Child Abduction Section", then "Inter-American Expert Meeting on International Child Abduction, November 2006".

	assistance in respect of implementation of the 1993 Intercountry Adoption; promotion of the new Maintenance Convention and on the Hague Conventions on Judicial and Administrative Co-operation. A regional conference for Central American States addressing Intercountry Adoption and child trafficking in the context of the 1996 Child Protection Convention is tentatively planned for late-2009/early 2010. See Supplementary Budget 2009-2010, Part II, Article B.4.
b) MENA and Asian Regional Programmes	As the next step to the Third Meetings in the Malta Process (Malta III, March 2009), follow-up smaller meetings and technical assistance missions to different States or groups of States in the region are anticipated. In October 2009 a regional seminar is planned in Oman for Gulf Cooperation Council States and Yemen in respect of the Child Protection and Legal Co-operation Conventions (funded by contributions from the Dutch Embassy in Oman and the Hague Forum for Judicial Expertise). A Mediterranean seminar for MENA States in respect of implementation issues surrounding the 1996 Convention is tentatively planned for the first part of 2010. Also during the first part of 2010 it is hoped to convene a regional seminar for, inter alia, India, Pakistan, Sri Lanka and Bhutan (a contribution from the Hague Forum for Judicial Expertise will serve as the base fund). See Supplementary Budget 2009-2010, Part II, Article B.5.

c) The Hague Project for Africa	A Meeting for Southern and Eastern African States on the Child Protection Conventions is tentatively planned for Autumn 2009. See Supplementary Budget 2009-2010, Part II, Article B.6. It is hoped to convene the follow-up to the August 2007 Meeting for Western and Central Africa in 2010.
d) Hague Programme for the Commonwealth of Independent States	Diagnostic visits and follow-up regional Seminar on the Legal Co-operation Conventions and the Child Protection Conventions planned over the course of 2009 and 2010. See Supplementary Budget 2009-2010, Part II, Article B.7.
35. National seminars and technical assistance to Contracting States and States considering ratification / accession **Advice on organisation and scientific programme, participation**	Ongoing. See Supplementary Budget 2009-2010, Part II in general.