



**INTERNATIONAL FAMILY LAW, LEGAL CO-OPERATION AND COMMERCE:
PROMOTING HUMAN RIGHTS AND CROSS-BORDER TRADE
IN THE CARIBBEAN THROUGH THE HAGUE CONFERENCE CONVENTIONS**

13 – 15 July 2016

Georgetown, Guyana

CONCLUSIONS & RECOMMENDATIONS

From 13 to 15 July 2016, 118 participants from 25 States and overseas territories,¹ including Attorneys General and Ministers of Justice, Chief Justices, Judges, Representatives from Ministries of Foreign Affairs, Child Protection Authorities, the Hague Conference on Private International Law (HCCH), the Caribbean Court of Justice, the Caribbean Community (CARICOM) Secretariat, NGOs, academics and practitioners, met in Georgetown, Guyana, to discuss the work of the HCCH and the relevance of some of its core Conventions and instruments² to Guyana and the wider Caribbean Region.

The meeting was jointly organised by the Ministry of Legal Affairs and the Attorney General's Chambers of Guyana, UNICEF Guyana, and the HCCH. It built on the Conclusions & Recommendations adopted by the first Caribbean meeting that took place in Bermuda (May 2012) and the second meeting held in Trinidad and Tobago (June 2015).

¹ Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, Brazil, Cayman Islands, Costa Rica, Curaçao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos Islands, United Kingdom, United States of America; *Representatives for Intergovernmental Organisations (IGOs)*: Caribbean Court of Justice, Caribbean Community (CARICOM), Commonwealth Secretariat, Eastern Caribbean Supreme Court, Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.

² The following Conventions and instruments were discussed: *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention); *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (Service Convention); *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (Taking of Evidence Convention); *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (Child Abduction Convention); *Convention of 25 October 1980 on International Access to Justice* (Access to Justice Convention); *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Inter-country Adoption 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* (Child Protection Convention); *Convention of 30 June 2005 on Choice of Court Agreements* (Choice of Court Convention); *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (Child Support Convention); *the Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations* (Protocol to the Child Support Convention); and the Hague Principles on Choice of Law in International Commercial Contracts (Hague Principles).



THE PARTICIPANTS

Recognised the valuable opportunity that the meeting afforded the participants to:

- a) gain a better understanding of the work of the HCCH, the Hague Conventions and their relevance for the Region;
- b) appreciate how the Hague Conventions serve as a basis for furthering co-operation, communication and co-ordination between legal systems;
- c) understand the interactions between the Hague Conventions and the implementation of international human rights, as well as the promotion and facilitation of international trade and investment; and
- d) exchange experiences with respect to the Hague Conventions and their relevance in the Region.

I. In relation to the Hague Conference:

- a) *Acknowledged* that becoming members of the HCCH (*i.e.* the Organisation) will allow Caribbean States to: i) actively participate in the development of global solutions and mechanisms needed to address cross-border legal challenges that affect the international community (in particular for the protection of human rights and facilitation of cross border trade), contributing to the process with their national and regional perspective; and ii) greatly enhance the possibility of receiving technical assistance from the Permanent Bureau and other partners in relation to the implementation and practical operation of the Hague Conventions; and
- b) *Recommended* that each State in the Region actively consider becoming a Member State of the Hague Conference.

II. In relation to the Hague Children's Conventions:

- a) *Recognised* that the four Hague Children's Conventions (*i.e.*, the Child Abduction, Child Protection, Adoption and Child Support Conventions) are a means to give real effect to some of the fundamental principles enshrined in the United Nations Convention on the Rights of the Child of 1989, based on the principle of the best interest of the child;
- b) *Recognised* that the 1980 Child Abduction Convention offers an effective framework to facilitate the swift return of children in child abduction cases; and that the 1996 Child Protection Convention provides a comprehensive framework of private international law rules for the cross-border protection of children, thus effectively complementing the Child Abduction Convention by offering clear rules on jurisdiction, including for urgent measures and their recognition, on the applicable law to the relevant issues, and the recognition of protective measures in general. These two Conventions also provide an effective framework for cross-border co-operation amongst authorities, which includes obtaining information on the child (in terms of location, needs, and other information), as well as laws and services in other States;
- c) *Recognised* that the 1993 Intercountry Adoption Convention provides an effective framework, based on cooperation between States, to ensure that cross-border adoptions only take place in the best interest of the child;
- d) *Recognised* that the 2007 Child Support Convention offers a comprehensive and effective framework to ensure the effective recovery of maintenance obligations abroad;
- e) *Recommend* that each State in the Region actively consider becoming a party to the Hague Children's Conventions; and



- f) *Encouraged* States and territories which have not yet done so to designate Mediation Contact Points in relation to cross-border children's matters.

III. In relation to the Hague International Network of Judges

- a) *Recognised* the value of the Hague International Network of Judges in facilitating the practical operation of the Hague Children's Conventions, and the facilitation of Direct Judicial Communications;
- b) *Encouraged* States and territories which have not yet done so to designate one or two Judges to the Network; and
- c) In this respect, were *pleased to hear* about the recent designations of Hague Network Judges by Barbados, Bermuda, the Cooperative Republic of Guyana, Jamaica, Suriname and Turks and Caicos (and current considerations for Aruba, Curaçao, and Sint Maarten).

IV. In relation to legal co-operation, litigation and commercial law

- a) *Recognised* that the 1961 Apostille Convention greatly facilitates the fast and efficient authentication of public documents emanating from one Contracting State to be produced in another Contracting State, thus also contributing to establish an environment that is more conducive to foreign direct investment, as highlighted by the World Bank Group; participants also noted and further encouraged the increasing use of electronic Apostilles (e-Apostilles) and electronic registers of Apostilles (e-Registers);
- b) *Recognised* that the 1965 Service and the 1970 Evidence Conventions greatly simplify and expedite the transmission of requests for the service of process and the taking of evidence abroad, and that the Conventions facilitate the prompt execution of those requests, establishing an international standard that commercial operators expect to be available to them;
- c) *Recognised* that the Access to Justice Convention, ensures that the mere status as a foreigner or the absence of residence or domicile in a State are not grounds for discrimination with regard to access to justice in that State, and this Convention effectively complements the Hague Service and Evidence Conventions;
- d) *Recognised* that the Choice of Court Convention provides legal certainty and predictability to parties engaged in cross-border commercial transactions, thus reducing transactional and litigation risks;
- e) *Recognised* that the Hague Principles provide a modern and comprehensive regime to promote party autonomy in international commercial contracts, and that they provide a comprehensive blueprint to guide users in the creation, reform, or interpretation of choice of law regimes at the national, regional, or international level; and
- f) *Recommend* that each State in the Region actively consider becoming a party to the Hague legal co-operation, litigation and commercial law Conventions, and assessing its domestic private international law rules on the law applicable to international commercial contracts against the background of the Hague Principles.

V. HCCH - UNICEF

- a) *Recognised* that the meeting enabled participants to appreciate the great importance of the Hague Children's Conventions;
- b) *Recognised* that these Conventions are based on the principle of the best interests of the child, which is a fundamental legal and interpretative principle, as well as a rule of



procedure (see Committee on the Rights of the Child General Comment No. 14 (2013));
and

- c) *Supported* the ratification of / accession to the Hague Children's Conventions, as necessary machinery to improve the legal architecture of States towards the effective cross-border protection of children.

VI. HCCH – CARICOM

- a) *Recognised* that the Hague Children's Conventions can provide a basis for developing a framework within the regional integration mechanism of CARICOM to modernize and harmonise critical cross-border family law issues;
- b) *Acknowledged*, the relevance of the Hague Conventions on legal cooperation, litigation and commercial law to Member States of CARICOM, in the context of CARICOM regional integration and the need to strengthen and harmonise the cross-border business environment and legal regimes in the CARICOM Single Market; and
- c) *Welcomed* the ongoing discussions between the secretariats of the HCCH and CARICOM aimed at further developing cooperation between the two organisations and encouraging participation in the Hague Conventions by CARICOM Member States.

ACKNOWLEDGMENTS

The participants recognised the event's success and acknowledged the exceptional organisation by the Government of the Cooperative Republic of Guyana, UNICEF and the HCCH. Special gratitude was expressed to His Excellency, the President of the Cooperative Republic of Guyana, Mr. Arthur Granger, and the Hon. Basil Williams, Attorney General and Minister of Legal Affairs of the Cooperative Republic of Guyana, for their personal and institutional commitment that made the organisation of this significant event possible. The participants also thanked CARICOM's Secretariat, the Commonwealth's Secretariat, the Department of State of the United States of America, and the Ministry of Foreign Affairs of Canada for their participation and/or support provided to the event.