

**RAPPORT SUR L'AMÉRIQUE LATINE – ÉTAT DU BUREAU DE LA CONFÉRENCE DE LA HAYE
EN AMÉRIQUE LATINE (DISPONIBLE EN ANGLAIS ET ESPAGNOL UNIQUEMENT)**

établi par le Bureau Permanent

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**LATIN AMERICAN REPORT – STATUS OF THE HAGUE CONFERENCE
LATIN AMERICAN OFFICE**

drawn up by the Permanent Bureau

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1. Introduction

The Hague Conventions provide judicial and administrative frameworks where individuals and families, as well as companies and other entities whose lives and activities transcend the boundaries between different legal systems, can enjoy a high degree of legal certainty. The Hague Conventions also facilitate the orderly and efficient settlement of cross-border disputes, good governance and the rule of law, while respecting the diversity of legal traditions.

Over the past 20 years, the number of Member States of the Hague Conference has almost doubled. There are almost 140 States that are Contracting Parties to one or more Hague Conventions. As more States see the value of joining the Hague Conventions, there is a growing demand from governments for specialist training and advice. Such support is very often crucial to ensure that the objectives of the various Conventions, such as protecting children or vulnerable adults, are achieved—particularly in developing States.

With this in mind, the Hague Conference has, since 2004, organised initiatives at the regional level in Latin America, Eastern Europe, the Asia-Pacific region and throughout Africa with a view towards supporting the effective and widespread implementation of Hague Conventions. Activities on a regional level encourage co-operation and co-ordination among States with special cultural, geographic and linguistic ties. In turn, this facilitates more effective adaptation of the Hague Conventions to the particular legal environments shared by States in a region.

Following from the Conclusions and Recommendations agreed to at the December 2004 Latin American Judges' Seminar on the 1980 Hague Child Abduction Convention, the Permanent Bureau identified the need to reinforce the operation of Hague Conventions in Latin America and to promote the participation of Latin American States in the work of the Hague Conference. These needs gave rise in 2005 to the development of a Special Programme for Latin American States.

Mr Ignacio Goicoechea—a former member of the Argentine Central Authority designated under the 1980 Hague Convention—assumed the role of Hague Conference Liaison Legal Officer for Latin America (LLO) to implement the Special Programme for Latin American States. The programme initially focused on the 1980 Child Abduction Convention, but has since extended to the rest of the Child Protection Conventions as well as the Legal Co-operation Conventions. Due to its success, the Special Programme has transformed into an extension of the Permanent Bureau in Latin America and now consists of a permanent office in the Latin American Region. The office has been reinforced by the assistance of a part-time legal and administrative assistant, Ms Florencia Castro, in 2009.

The work that has been developed by the Hague Conference in Latin America has been made possible thanks to the generous assistance of: i) the Argentine Ministry of Foreign Affairs, who provided office space and bore the operational costs of the Latin American Office in Buenos Aires; ii) the United States of America, which enabled the provision of the part-time Legal Assistant starting in 2009; iii) the Government of Spain, who has covered interpretation and translation costs of several meetings organised by the Hague Conference; and iv) contributions of several other States to the Supplementary Budget, administered by the Hague Conference's International Centre for Judicial Studies and Technical Assistance, which have been subsequently invested in technical assistance projects for Latin American States. Special consideration is due to The Netherlands, Germany and Canada for their generous contributions to the Supplementary Budget.

2. Services of the Latin American Office

With the aim of increasing the visibility of the Hague Conference and the Hague Conventions in Latin America and improving the operation of the Hague Conventions in the region, the Latin American Office:

- Encourages and facilitates engagement of regional actors and States in the work of the Hague Conference;
- Encourages and facilitates networking among regional actors—including National Organs, Central Authorities, Hague Network Judges, international organisations and the academic sector;
- Facilitates accessibility of information regarding the Hague Conference to actors in the region and promotes knowledge of, and best practices under, the Hague Conventions;
- Gathers information and performs research in the region according to the needs of the Permanent Bureau;
- Assists with the development and promotion of Hague Conference tools and guides (e.g. INCADAT, INCASTAT, iChild, e-APP, and Guides to Good Practice, among others) for persons and entities tasked with implementing Hague Conventions;
- Develops and promotes the work of the Hague Conference in the Spanish language;
- Provides and / or co-ordinates technical assistance to Latin American States in respect of implementation and operation of Hague Conventions, in particular the Children and Legal Co-operation Conventions; and
- Provides and / or co-ordinates technical assistance to Latin American States in respect of trainings and seminars for judges, government officials, Central Authority officers and other professionals responsible for implementing Hague Conventions.

On a daily basis, officials, judges, practitioners and academics from the region are now in contact with the Latin American Office, which either responds to them directly or channels their needs and requests to the Permanent Bureau. Likewise, many requests addressed from the Permanent Bureau to the region are channelled through the Latin American Office, which serves as a source of information and a regional conduit for many of the global initiatives that are being developed and processed from the Permanent Bureau. Furthermore, some of the Conference's activities in the region, including those supported by the Permanent Bureau's International Centre for Judicial Studies and Technical Assistance, are now directly developed and co-ordinated from the Latin American Office.

3. Overview of activities 2005-2011

It is quite difficult to measure accurately the results of a programme which has been increasing its scope year after year and which is completely linked with the whole operation of the Permanent Bureau. In particular, Permanent Bureau staff have been highly involved and / or have participated directly in many of the activities that will be reported herein. Nonetheless, we try to highlight some concrete developments in the region during the last seven years which are directly linked to the work carried out by the Latin American Office.

a) Membership of the Conference and accessions and ratifications of Hague Conventions

i) Membership of the Conference

Three Latin American States—Paraguay on 28 June 2005, Ecuador on 2 November 2007 and Costa Rica on 27 January 2011—have become Members of the Hague Conference since the enactment of the Special Programme for Latin America in 2005.

In addition, one State—Colombia in 2006—has been admitted as a Member and will join the organisation upon its acceptance of the Statute.

ii) Accessions / ratifications of Hague Conventions

Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents: Dominican Republic acceded 12 December 2008; Peru acceded 13 January 2010; and Costa Rica acceded 6 April 2011.

Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption: Dominican Republic acceded 22 November 2006 and Cuba acceded 20 February 2007.

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: Uruguay ratified 17 November 2009 and Dominican Republic acceded 14 December 2009.

Convention of 30 June 2005 on Choice of Court Agreements: Mexico acceded 26 September 2007.

b) Participation of Latin American States in Hague Conference activities

The work of the Latin American Office includes the distribution of questionnaires, translation of preliminary documents into the Spanish Language, sending of documents and making arrangements for trips funded by the Hague Conference in order to facilitate attendance to events.

The Latin American Office further facilitates the participation of delegates in regional and international meetings, assists delegates and experts with obtaining relevant information and encourages regional dialogue through conference calls, regional meetings, preparation of joint proposals and working documents for global meetings.

The active participation of delegates from Latin America in Special Commissions held during the reported period—including the number of delegates, responses to questionnaires, provision of proposals and working documents and interventions—has notably increased and contributes to the successful outcome of those meetings¹.

¹ Second meeting of the Special Commission on the practical 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); Fifth meeting of the Special Commission to review the operation of the Hague Convention of 25 October 1980

c) Provision of Technical Assistance

The Special Programme for Latin America began by concentrating its efforts on providing technical assistance to Latin American States in respect of implementation of the **Hague Children's Conventions**—including those Conventions that focus on abduction, adoption and protection of children. Since then, technical support has expanded to include assistance on Conventions regarding **international legal co-operation and litigation** as well as **international commercial and financial law**.

i) *International protection of children*

Technical assistance for Latin America on the Hague Children's Conventions has been extensive:

- **Meetings with Central Authorities, judges and other key operators** have been organised to improve the operation of the 1980 Child Abduction Convention, the 1993 Protection of Children and Intercountry Adoption Convention, the 1996 Parental Responsibility Convention and to promote the 2007 International Recovery of Child Support and Other Forms of Family Maintenance Convention;
- **National and international seminars, meetings and workshops**—designed to identify key actors responsible for implementing Hague Children's Conventions; find solutions to obstacles facing correct application of these Conventions; identify and encourage good practices; facilitate the provision of information on Children's Conventions through INCADAT, INCASTAT, iChild, The Judges' Newsletter and Guides to Good Practice; and promote participation of regional actors in Hague Conference work—have been held on an ongoing basis across the region; and
- **Convention-specific technical assistance programmes** have been developed and are ongoing in Mexico, Brazil, Costa Rica and Guatemala.

For a more comprehensive overview of 2005 – 2011 activities related to the Hague Conference Children's Conventions in the region, please consult Annex 1 attached to this report.

ii) *International legal co-operation and litigation*

Meetings with officials in several States have addressed the important role the Judicial and Administrative Co-operative Conventions could occupy in the region. Discussions have included advice on how best to incorporate the Conventions into Latin American legal systems and ways in which the Permanent Bureau could provide further information and assistance.

The Liaison Legal Officer has further assisted with, participated in and presented at both national and international events designed to discuss the operation and implementation of the Judicial and Administrative Co-operative Conventions. Convention-specific technical assistance support has been administered to the Dominican Republic, Chile, Uruguay, Paraguay and Bolivia.

For a more comprehensive overview of 2005 – 2011 activities related to the Hague Legal Co-operation Conventions in the region, please consult Annex 2 attached to this report.

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); Special Commission on the practical operation of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (17-25 June 2010); Sixth 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 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 (1-10 June 2011).

iii) International commercial and financial law

Deputy Secretary General Christophe Bernasconi presented the 2006 Convention on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary at various events organised in Brazil, Argentina, Chile and Mexico in 2006 and in Colombia and Peru in 2007. All of these events gathered key actors from the respective financial markets in the region. The Liaison Legal Officer to Latin America assisted Mr Bernasconi with preparation, co-ordination and follow-up for these events.

d) Development and promotion of the work of the Hague Conference in the Spanish Language

With a view towards increasing the visibility of the work of the Hague Conference in Latin America, the Latin American Office has put forth considerable effort to facilitate greater accessibility of information concerning operation of the Hague Conventions and has worked to develop Hague Conference work in the Spanish language.

The Latin American Office assists with the translation of several documents into Spanish and, conversely, translates into English documents and information provided by different Latin American States. These documents have been utilised within the Conference's preparatory work for many meetings and have provided added valuable insight to the Conference and its Members.

Strong support has been expressed, and special recognition made, by the National Authorities, judges and delegates for the continued development of the work of the Hague Conference in the Spanish language. The provision of information in Spanish, as well as the possibility to provide Spanish interpretation at Special Commissions and Diplomatic Sessions, has universally been acknowledged as a critical contribution towards removing a major obstacle to the effective participation of Latin American States in the work of the Hague Conference.

e) Co-operation with other institutions

i) Co-operation with international organisations

The Latin American Office has actively strengthened relations with other international organisations by participating and presenting at their meetings, organising joint meetings with the Hague Conference and co-ordinating joint actions and projects. To date, the international organisations the Latin American Office has worked with include:

- The United Nations Children's Fund (UNICEF) • Organization of American States (OAS) • Inter-American Children's Institute (IIN) • Inter-American Juridical Committee (IAJC) • MERCOSUR • Spanish Agency for International Development Cooperation (AECID) • Central American Court of Justice (CACJ) • Conference of Ministers of Justice of Ibero-American Countries (COMJIB) • Ibero-American Legal Assistance Network (IberRed)
- International Bar Association (IBA) • International Association of Women Judges (IAWJ) • International Social Services (ISS) • Latin American Foster Care Network (RELAF) • Mercosur Association of Family and Children Judges •

ii) *Academic co-operation*

The Latin American Office has also been actively involved in promoting co-operation with academic and other scholarly organisations. Contributing academic institutions include:

- American Association of Private International Law (ASADIP) • Center for Studies on Law, Economy and Politics (CEDEP) • Buenos Aires University (UBA) • Pontifical Catholic University of Rio de Janeiro (PUC-Rio) • National Autonomous University of Mexico (UNAM) • Center for Research and Teaching in Economics (CIDE) • Pontifical Catholic University of Peru (PUCP) • University of Chile • Mexican Academy on Private International and Comparative Law (AMEDIP) • Argentinean Association on International Law (AADI)

iii) *Co-operation agreements*

Inter-American Children's Institute (IIN): In 2006, the Hague Conference and IIN signed a co-operation agreement that paves the way for the development of several joint actions.

MERCOSUR: To further implement the Hague Conference's strategic aim of reinforcing its co-operation with, and presence in, the region, the Secretary General signed an agreement concerning co-operation with MERCOSUR in May 2010. The agreement was co-signed by the Ministers of Justice of the Members of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), as well as those of its Associate States (Bolivia, Chile, Ecuador and Peru). The agreement entered into force immediately.

American Association of Private International Law (ASADIP): ASADIP has agreed to include time on its agenda for the Hague Conference at its annual November Congress. A regional discussion on the work of the Hague Conference will allow for feedback from Latin American States on the work of the Conference and assist ASADIP and other American delegations prepare for their participation in the Hague Conference annual Council on General Affairs and Policy Meeting each April.

4. **The Latin American Office: Key features and benefits**

a) **Key features**

i) *Provides a **cost-effective solution** to expanding and strengthening the provision of Hague Conference services to Latin America*

The Latin American Office offers a means of enhancing the Permanent Bureau's regional initiatives in a cost-effective and efficient way. It:

- Employs personnel with same cultural background and language as the region in which they operate;
- Allows for staff to work within same time zone as the region—implying 3 to 8 more office hours to interact with people in the region in comparison with the Hague office;
- Reduces travel costs;
- Incorporates a cost-free standing arrangement with the Argentinean Government that covers office space and operative costs (including computers, internet and telephone communications);
- Reduces the costs of interpretation for training events, production of written documents (including draft laws and regulations) and other communications that are integral to the operation of the Hague Conference in Latin America.

- ii) *Promotes and generates **engagement of States** and other actors in Hague Conference work*

The Latin American Office has been crucial in:

- Identifying needs for technical assistance in coordination with respective governments and authorities;
- Articulating the provision of such assistance in partnership with local actors, other States, international organisations and NGOs;
- Facilitating the engagement with and promoting the development of networking capacities with regional actors, including:
 - Central Authorities
 - Hague Network Judges
 - National Organs
 - Academic Sector
 - International Organisations

- iii) *Provides **sustainable** Hague Conference **support** to the region*

In order to be fully effective, technical assistance often needs to take the form of continued processes and not of isolated actions. The Latin American Office has become a critical base for the provision of sustainable technical assistance in the region. It allows the Permanent Bureau to:

- Follow up on conclusions reached at a wide range of national, regional and global meetings;
- Assist with the implementation of agreed initiatives, including legal reforms, internal regulations and practices, IT tools, networks and GGPs;
- Identify local experts and support their involvement in Hague Conference work;
- Provide a permanent source of information and consultation for actors in the region; and
- Identify and develop synergies with other organisations and institutions that share the same objectives as the Hague Conference.

b) Benefits

The Latin American Regional Office provides many benefits to the region. It promotes and strengthens networking and co-operation among States with special cultural and linguistic ties; exposes States who might otherwise be unfamiliar with Hague Conventions to the instruments and explains the benefits of joining as a Contracting State; and develops good practices and consistent interpretation throughout the region and beyond. The Latin American Office thus contributes to the successful operation of the Conventions and often leads to innovative solutions for adapting the Conventions to a region that shares a distinct legal culture.

The success of the Latin American Programme illustrates the particular importance of a permanent physical presence of the Hague Conference in the region. It has proven to be a cost effective catalyst for regional implementation and promotion of Hague Conventions.

The creation of the position of a Liaison Legal Officer for Latin America (since 2009 aided by a part-time assistant) and the establishment of a regional office thanks to the generous support of the Argentinean Government has brought multiple benefits to the region and, in turn, to all Members of the Conference:

- It has contributed to a better knowledge and understanding of the Hague Conference and its work;
- It has facilitated the flow of information from the region to other Members;

- It has stimulated ratifications of Hague Conventions and reinforced the networks of Central Authorities and judges integral to the success of these Conventions; and
- It has allowed for progressive improvement of the implementation and application of Hague Conventions throughout the region, including in a number of Latin American States that are not yet Members of the Organisation but that have joined one or more Hague Conventions.

5. Strengthening the Latin American Office

Due to the generous support for and success of the regional work carried out in Latin America, the Hague Conference is now strengthening its presence in the region and seeking to enhance the services rendered through the Latin American Office. The Office has become a critical source of information and support for administrative and judicial authorities, academics and other operators of the Hague Conventions, in particular those involved in child protection matters.

As an integral and increasingly vital part of the Hague Conference, the Latin American Office seeks to reinforce its work through greater engagement with actors in the region.

Means to support the Latin American Office include:

- **Secondments** from States in the region to assist with the development of specific technical assistance programmes of interest to the respective State;
- **Internships** and **co-operative projects** with universities and other investigative or educational institutions;
- **Partnerships** with other organisations to develop common projects; and
- **Personnel**, including a full-time assistant to the Legal Liaison Officer (currently only part-time) and a translator and reviser (English-Spanish)

By taking advantage of the already installed capacity in the region, the Latin American Office will be able to continue augmenting the reach of the Hague Conference in the region and beyond.

ANNEXES

International Protection of Children

1. Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

The 1980 International Child Abduction Convention has been the central focus of the Latin American Office. The activities described below were oriented towards improving the operation of the Child Abduction Convention in the Latin American region.

a) Meetings with Central Authorities

The Liaison Legal Officer has visited all of the Latin American Central Authorities designated under the 1980 Child Abduction Convention. These meetings have succeeded in:

- Discussing the Convention's operation with key actors in the region;
- Isolating obstacles to correct application and identifying solutions to those obstacles;
- Identifying good practices and concerns regarding implementation and operation;
- Facilitating the provision of information related to services provided by the Hague Conference, including INCADAT, INCASTAT, iChild, The Judges' Newsletter and Guides to Good Practice; and
- Promoting participation of regional actors in Hague Conference work and meetings.

b) National seminars

The Liaison Legal Officer assisted with and presented at 33 judicial and interdisciplinary national seminars on international child abduction over the course of the reporting period.¹ These seminars were organised in co-ordination with Central Authorities and / or other relevant judicial personnel and addressed a wide range of issues pertaining to the Child Abduction Convention—including custody, contact rights, exceptions to return and the best interests of the child, as well as internal procedure considerations such as the need for expeditious processes. Seminars were attended by Central Authority officers, judges and other judicial actors.

c) International seminars and meetings

Latin American Judges' Seminar (2005)

The Latin American Office together with the Permanent Bureau, and under the aegis of The Hague Forum for Judicial Expertise, organised an advanced judicial seminar entitled *The Hague Children's Conventions and Cross-Border Protection of Children within Latin America*. The seminar, held in The Hague from 28 November to 3 December 2005, concentrated on issues of international and regional child protection, including child abduction and trans-frontier access / contact between parents and children in particular. 18 judges from the Americas—including judges from Argentina, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay, Venezuela, the United States and Canada—attended. Conclusions of the meeting are available at http://www.hcch.net/upload/jud_seminar2005_e.pdf.

Latin American Central Authorities' Conference Call (2006)

A conference call with Latin American Central Authorities was organised to prepare for the Special Commission and the Inter-American Expert Meeting in July 2006. 15 Latin

¹Argentina (2008), Brazil (2006, 2008, 2009), Chile (2006, 2008), Colombia (2005, 2007), Costa Rica (2005, 2009), Dominican Republic (2005, 2009), Ecuador (2006, 2011), El Salvador (2005), Honduras (2005, 2008), Mexico (2005, 2009, 2010), Panama (2005, 2011), Paraguay (2006, 2007), Peru (2006, 2007, 2008, 2009), Uruguay (2005, 2008) and Venezuela (2007, 2008).

American States participated in the call, which addressed the main obstacles to the implementation of the Child Abduction Convention in Latin American States and produced recommendations for overcoming those obstacles. This information was subsequently considered by the Permanent Bureau when preparing the agenda and preliminary materials for the 2006 Special Commission and Inter-American Expert Meeting. Since then, conference calls between the Latin American Office and Latin American States have been frequently used in preparation for global meetings.

Inter-American Experts Meeting (2006)

Following the 2006 Special Commission, and taking advantage of the presence of Latin American Authority Officers and Judges in The Hague, the Latin American Office organised the *Inter-American Expert Meeting on Child Abduction*. The meeting addressed the implementation of the Special Commission's Conclusions and Recommendations in the region and helped prepare for the upcoming 2007 Inter-American experts meeting. The Inter-American Children's Institute also attended. Conclusions of the meeting are available at http://www.hcch.net/upload/concl_iin_e.pdf.

Inter-American Experts Meeting (2007)

Together with the Inter-American Children's Institute, the Latin American office organised the *Second Meeting of Government Experts: Inter-American Program of Cooperation for the Prevention and Remedy of Cases of International Abduction of Children by one of their Parents*. The meeting, held in Buenos Aires, Argentina from 19 to 21 September 2007, succeeded in adopting the Model Law on Procedure for the Application of the Conventions on International Child Abduction (available at: http://www.hcch.net/upload/iap28ml_e.pdf) as well as generating and presenting the Preliminary Study on the 1996 Child Protection Convention. Conclusions of the meeting are available at <http://www.hcch.net/upload/iap28.pdf>.

Iber-Red Meeting on Child Abduction (2010)

The Liaison Legal Officer attended the *Fifth Meeting of Central Authorities and Contact Points of 'IberRed' on International Child Abduction*. The meeting was held in Cartagena de Indias, Colombia with the aim to present the "state of the art" instruments combating child abduction. The meeting also included a review of the 1996 Child Protection Convention. All Ibero-American Central Authorities were invited to attend. Conclusions of the meeting are available in Spanish at http://iberred.org/sites/default/files/sustraccion_de_menores_cartagena_indias_julio_20_10.pdf.

Inter-American Experts Meeting (2011)

The Latin American Office—in co-ordination with the Inter-American Children's Institute and the Mexican Ministry of Foreign Affairs—organised the *Inter-American Meeting of International Hague Network Judges and Central Authorities on International Child Abduction*, held in Mexico City from 23 to 25 February 2011. Participants addressed the main obstacles to implementation of the Child Abduction Convention in their states and presented useful recommendations geared towards overcoming those obstacles. Participants also stressed the importance of urgent responses between Central Authorities; promoted the use of modern technologies; acknowledged the value of Hague Conference tools (including, among others, Guides to Good Practice, the Model Law on Procedure for the Application of the Conventions on International Child Abduction and INCADAT) as well as the International Network of Judges in improving the operation of the Convention; and urged the Hague Conference and Inter-American Children's Institute to develop training courses for Central Authorities and judges. Conclusions of the meeting are available at <http://www.hcch.net/upload/temp/mex2011concl.pdf>.

d) INCADAT

The Latin American Office co-ordinates and assists with translation of all INCADAT summaries into Spanish. It further looks for and regularly receives Latin American decisions, which are then summarised and uploaded to the database. Summaries concerning decisions on the Inter-American Convention on the International Return of Children will also be included in INCADAT due to the work of the Latin American Office.

e) Technical assistance programmes

Mexico

In August 2009, the Latin American Office — with the support of the Permanent Bureau's International Centre for Judicial Studies and Technical Assistance, and in co-ordination with the Mexican Ministry of Foreign Affairs (Central Authority), the Superior Court of Justice of Mexico D.F. and the Presidents of Mexico's States Supreme Courts (CONATRI) — began a technical assistance project designed to assist Mexican authorities improve the operation of the Child Abduction Convention.

Key activities of the project included a diagnostic visit and report in August 2008; a judicial seminar in September 2009; the First Meeting of the Mexican Network of Judicial Cooperation for the Protection of Children (the "Mexican Judicial Network") in February 2009; and the Second Meeting of the Mexican Judicial Network as well as training on international child abduction for designated judges in February 2011.

The project succeeded in:

- Compelling the Mexican Central Authority to revise internal procedures and improve its co-operation with the judiciary and foreign Central Authorities;
- Creating the Mexican Judicial Network and designating Judges through their respective Supreme Courts;
- Concentrating jurisdiction for child abduction cases in the Mexico D.F. district;
- Developing a Draft Law of Procedure to be applied to the Child Abduction Convention; and
- Training Judges officially designated to the Mexican Judicial Network.

Current projects

As of November 2011, the Latin American Office is providing ongoing technical assistance related to the Child Abduction Convention to Brazil, Costa Rica and Guatemala, among others.

2. Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption

The 1993 Intercountry Adoption Convention has become another important focus of the Latin American Office. The activities described below were oriented towards improving the operation of the Intercountry Adoption Convention in the Latin American region.

a) Meetings with Central Authorities

The Liaison Legal Officer has met with all of the Latin American Central Authorities designated under the 1993 Intercountry Adoption Convention. These meetings have succeeded in:

- Discussing the operation of the Intercountry Adoption Convention;
- Identifying difficulties experienced with implementation;
- Facilitating the provision of information regarding services developed by the Hague Conference, including The Judges' Newsletter and Guides to Good Practice;

- Promoting participation in Hague Conference meetings, including seminars and Special Commissions; and
- Identifying ways in which the Latin American Office in co-ordination with the Permanent Bureau might provide assistance regarding implementation.

In visits to States not yet Parties to the 1993 Intercountry Adoption Convention, meetings were held with authorities responsible for international adoption in order to underline the many positive developments that accompany being a Party to the Convention.

b) National seminars

The Liaison Legal Officer assisted with and presented at judicial and interdisciplinary seminars in Argentina (2008), Panama (2008) and Colombia (2008).

c) International seminars and meetings

Centro-American Conference (2009)

The Latin American Office, in co-ordination with the Permanent Bureau and UNICEF, organised a conference on the transborder protection of children and the right of a child to a family through family preservation and national and international adoption, held in Antigua, Guatemala in September 2009. Delegates from Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Mexico, Nicaragua and Panama participated in the event, which generated an important set of Conclusions and Recommendations, highlighting, among others, the need to eliminate completely 'private adoptions' from some of the child protection systems in the region. The Conclusions and Recommendations of the meeting were taken into consideration by the Hague Conference in its preparation for the 2010 Special Commission and are available in Spanish at http://www.hcch.net/upload/adop2009gt_concl.pdf.

Meeting of Latin American Central Authorities of States of Origin (2010)

Delegates from Brazil, Chile, Colombia, Dominican Republic, Ecuador, Guatemala, Mexico and Uruguay participated in a meeting of Latin American Central Authorities of States of origin organised by the Latin American Office and held in Santiago, Chile in May 2010. The meeting succeeded in:

- Creating a working group of Latin American Central Authorities in order to improve co-operation and communication;
- Discussing the specific role of Central Authorities in States of origin;
- Updating the Authorities' knowledge of Latin American adoption laws, procedures and challenges; and
- Preparing common proposals to be submitted to the Third Special Commission to review the practical operation of the 1993 Convention.

d) Technical assistance programmes

Guatemala

Guatemalan Authorities requested Hague Conference Assistance in overcoming the serious difficulties they faced in implementing the Intercountry Adoption Convention. In February and March 2007, a fact-finding mission to Guatemala was carried out by the Liaison Legal Officer on behalf of the Permanent Bureau's International Centre for Judicial Studies and Technical Assistance. This mission laid the foundation for the work of the international advisory group created at the request of —and in consultation with— Guatemalan Authorities in order to give legal advice on the 2007 Adoption Bill.

The technical assistance provided to Guatemala has helped to:

- Facilitate the development and approval of a new adoption law, as well as the entry into force of the 1993 Convention;
- Set up the Central Authority under the Convention;
- Prohibit adoptions completed by notaries ("notarial adoptions"); and
- End abuses of and trafficking of children for intercountry adoptions.

Although intercountry adoptions have officially yet to resume, the Central Authority with the help of the Permanent Bureau (including the involvement of the Latin American Office) has worked hard to guarantee the rights of children who may be adopted. In particular, the Central Authority of Guatemala deserves special recognition for the successful development of national adoptions, which have dramatically increased over the last three years, as well as the orientation provided to mothers who wish to relinquish their children (often after receiving such advice, these mothers opt to keep their children). Hague Conference assistance to Guatemala is currently ongoing.

Mexico

Mexican Authorities requested Hague Conference assistance in improving the operation of the 1993 Convention. In February 2010, the Latin American Office — with the support of the Permanent Bureau's International Centre for Judicial Studies and Technical Assistance— conducted a diagnostic report on the Convention's operation in Mexico. Hague Conference assistance to Mexico is currently ongoing.

3. 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

With regard to the 1996 Child Protection Convention, the Latin American Office has succeeded in:

- Supporting Latin American States during analysis and implementation phases;
- Promoting the Convention in concert with the 1980 Child Abduction Convention;
- Including the Convention in the programmes of various regional meetings; and
- Fostering further discussion on and consideration of the Convention.

More specifically, the Liaison Legal Officer has met with the International Affairs Commission of Parliament in Uruguay to discuss the Convention and respond to questions from legislators; He has also assisted the Central Authority in Ecuador on matters regarding implementation. The Latin American Office has further co-ordinated a group of experts from the Americas, which generated the first preliminary study on the 1996 Child Protection Convention. This study continues to be used as the first source of consultation in those States studying the Convention with a view towards its ratification or accession.

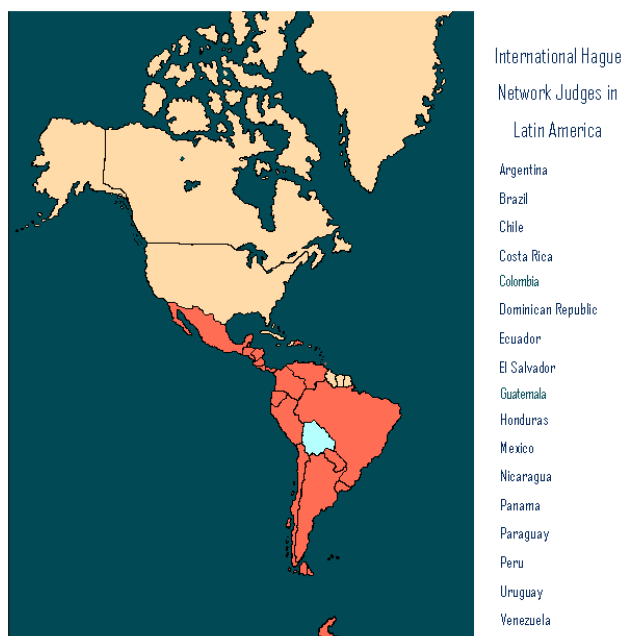
4. Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

Discussions between the Latin American Office and National Authorities of Latin American States indicated strong support for the 2007 Hague Convention on International Recovery of Child Support and International Forms of Family Maintenance. The Hague Conference viewed the active participation of Latin American States during the process of negotiations surrounding the new Convention —and in particular during the Diplomatic Conference in 2007— as a particularly important statement regarding regional need for the Convention. Since the 2007 Convention's inception, the Liaison Legal Officer, as a representative of the Latin American Office, has:

- Presented the Convention in National Seminars held in Brazil in 2008 and Argentina in 2009; and
- Participated in the international meeting of Mercosur States in advance of the Diplomatic Conference in September 2007. This meeting generated unified comments and proposals to the draft Convention, which subsequently became the basis for the Latin American position during the final negotiations at the Diplomatic Conference.

5. The International Hague Network of Judges

Between 2005 and 2011, the International Hague Network of Judges has witnessed exponential growth in the Latin American region. During the reported period, the Liaison Legal Officer visited and had meetings with Supreme Court magistrates to explain the aims of the Network and the role of Network Judges in assisting with proper Convention implementation. In early 2005, no Network Judges had been designated; currently, all Latin American States that are Parties to the 1980 Child Abduction Convention have designated Network Judges. Many of these Judges have contributed to the solution of child abduction cases, providing advice to their colleagues in their home States and abroad and actively promoting direct judicial communications.



a) Regional networks

In December 2009, in Montevideo, Uruguay, the Latin American Office, with the support of the Mercosur Association of Children and Family Judges, organised the first meeting of the Latin American Hague Network Judges in order to analyse the content, formalities and scope of direct judicial communications relating to international child abduction. The meeting was attended by judges from Argentina, Chile, Dominican Republic, Ecuador, Mexico, Nicaragua, Paraguay, Peru, Uruguay and Venezuela. The meeting's Conclusions and Recommendations, available at http://www.hcch.net/upload/latam2009concl_e.pdf, assisted in the formulation of the Hague Conference Draft Principles on Direct Judicial Communications.

b) National networks

Following the Hague Conference initiative, both Argentina (2008) and Mexico (2010) organised National Networks of Judges with a view towards strengthening judicial co-operation on matters relating to international child protection. The Latin American Office has actively supported these initiatives and continues to assist in their development.

c) Judges' Newsletter on International Child Protection

The Latin American Office has actively promoted the Judges' Newsletter on International Child Protection among judges and other operators in the region. Many Latin American users have been added to the subscription list and, due to the work of the Latin American Office, Latin American Judges now actively contribute to the publication.

International Legal Co-operation and Litigation

1. International Legal and Administrative Co-operation Conventions

- **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 (Evidence Convention)**
- **Convention of 25 October 1980 on International Access to Justice (Access to Justice Convention)**

Since the implementation of Phase II (July 2006 to June 2007) of the Special Programme for Latin American States, the work of the Hague Conference in Latin America has expanded to include the Hague International Legal and Administrative Co-operation Conventions. The main focus since the onset of this stage thus far has been promoting the Legal and Administrative Co-operation Conventions in the Latin American region and assisting States in their legal analysis with a view to the incorporation of these Conventions into their legal systems.

In this context, the Liaison Legal Officer has assisted the Deputy Secretary General of the Hague Conference, Mr Christophe Bernasconi, with: 1) organising training events and meetings to promote the Legal and Administrative Co-operation Conventions; 2) regular monitoring work regarding the Legal and Administrative Co-operation Conventions; and 3) technical assistance activities developed to facilitate implementation and improve operation of the Legal and Administrative Co-operation Conventions in the Latin American region.

a) Meetings with Central and Competent Authorities

Within the framework of conducting various missions throughout Latin America, the Liaison Legal Officer has had the opportunity to meet with most of the Central and Competent Authorities designated in the region for the Legal and Administrative Co-operation Conventions. During the course of these meetings, the Liaison Legal Officer has discussed the relevant Conventions' operation with key actors, identifying obstacles and possible solutions, as well as good practices which might be replicated in other States. The Liaison Legal Officer has also raised awareness and promoted the use of Hague Conference tools related to these Conventions (e.g., the e-APP, explanatory reports, forms, handbooks, outlines, the Hague Conference website, etc.).

b) National seminars and meetings

Since 2006, the Deputy Secretary General and the Liaison Legal Officer have organised and presented at national seminars on the Hague Legal and Administrative Co-operation Conventions held in Chile (2010), Costa Rica (2011), the Dominican Republic (2009) and Peru (2007).¹

In the framework of his different missions in the region, the Liaison Legal Officer has had the opportunity to meet, in all 19 Latin American States, with relevant authorities in order to promote and discuss incorporation of the Legal and Administrative Co-operation Conventions into Latin American States' respective legal systems. It should be noted that every Latin American State still has pending ratification or accession to one or more Hague Legal and Administrative Co-operation Conventions.

¹ The seminars held in Chile and the Dominican Republic focused specifically on the 1961 Apostille Convention.

c) International events and co-operation with other institutions

MERCOSUR

In October 2006, the Deputy Secretary General and the Liaison Legal Officer participated and presented at a meeting of the Technical Commission -of MERCOSUR and Associates States Meeting of Ministers of Justice-, held in Curitiba, Brazil. At the meeting, the Deputy Secretary General and Liaison Legal Officer presented and explained the operation of the Legal and Administrative Co-operation Conventions and provided delegates with Spanish outlines of these Conventions.

As a result of the discussions and analysis carried out by delegates with the Permanent Bureau's assistance, on 10 November 2006, the Ministers of Justice of MERCOSUR, Chile and Bolivia signed a declaration promoting the approval by MERCOSUR and Associates States of the Hague Legal and Administrative Co-operation Conventions, as well as the adoption of any necessary decision needed for their effective implementation.

Central American Court of Justice

In June 2009, the Deputy Secretary General and the Liaison Legal Officer participated and presented at a seminar co-organised by the Central American Court of Justice and the Hague Conference that focused on the Hague Legal and Administrative Co-operation Conventions. The seminar was attended by approximately 50 experts, including several Nicaraguan Judges and Prosecutors, as well as four Magistrates of the Centro American Court of Justice.

American Association of Private International Law (ASADIP)

In November 2008, at the annual meeting of ASADIP held in Mexico D.F., the Hague Conference had a special slot to present the Hague Legal and Administrative Co-operation Conventions and to discuss the questionnaires that had been prepared by the Permanent Bureau for the 2009 meeting of the Special Commission on the operation of these Conventions. Discussions and information gathered during this meeting assisted the Permanent Bureau with the preparations for the 2009 Special Commission and helped ASADIP to prepare their positions for their participation as observers in the 2009 Special Commission. The slot at the event was prepared and co-ordinated by the Liaison Legal Officer and benefited from the participation of the Secretary General of the Hague Conference.

Centro de Estudio de Derecho, Economía y Política (CEDEP) and Heidelberg University (Heidelberg Center for Latin America)

In October and November 2009, CEDEP and the Heidelberg University organised in Asunción, Paraguay, a seminar on Contracts, Transfrontier Litigation and Commercial Arbitration, addressed to the business community and public officers. The seminar included a special slot on the Hague Legal Co-operation and Litigation Conventions, which was presented by the Liaison Legal Officer. The Conventions raised interest among participants, who realised the benefits of these Conventions, in particular with a view to facilitate international trade, legal certainty and access to justice.

CAFTA-DR Regional Trade Programme (Central America Free Trade Agreement and the Dominican Republic)

On 17 July 2008, the Liaison Legal Officer participated and delivered a paper in a workshop on the 1961 Apostille Convention during the CAFTA-DR (Central America Free Trade Agreement and the Dominican Republic) Regional Trade Programme, which was attended by experts from Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua. The meeting allowed the exchange of information between

States Parties to the Apostille Convention (El Salvador and Honduras) and other States considering accession.

The event was proven very effective, since after this meeting Dominican Republic and Costa Rica have joined the Apostille Convention, and Nicaragua has been working continuously towards its accession.

2009 Special Commission

The Latin American Office assisted with the preparations of the 2009 meeting of the Special Commission. It facilitated access to information about the meeting to Latin American States (including translations into Spanish), gathered information for the Permanent Bureau's preparatory work from the States in the region (e.g., follow up to questionnaires) and facilitated the participation of Latin American experts at the meeting.

The mentioned work contributed to the significant amount of Latin American States participating at the meeting and their active involvement during the work of the Special Commission.

d) Electronic Apostille Program (e-APP)

The electronic Apostille Program (e-APP) raised the interest of several Latin American States. Indeed, Colombia has been one of the pioneer States participating in the project and was the first State in the world to receive and accept an e-Apostille, originally issued in Kansas, United States of America.

The Deputy Secretary General and the Liaison Legal Officer introduced the e-APP at all promotional events that included the Apostille Convention (see note 1, *supra*).

From 26 to 29 July 2011, the seminar "*Nuevas Tecnologías: Apostilla Electrónica*" was held in La Antigua, Guatemala. It was organised by the Spanish Co-operation Agency (*Agencia Española de Cooperación Internacional al Desarrollo*) in co-operation with the Spanish Ministry of Justice under the framework of the Ibero-American Specialised Technical Training Programme (*Programa Iberoamericano de Formación Técnica Especializada*, or PIFTE). The Spanish Notary's General Council (*Consejo General del Notariado Español*) and the Hague Conference, with the assistance of its Latin American Office, supported the event and participated and presented at the meeting. The meeting was attended by 33 experts from 13 Ibero American States (including Argentina, Bolivia, Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, México, Nicaragua, Perú, Spain and Uruguay). The main objective of the Seminar was to contribute to the security in all transactions and in the circulation of public documents through the promotion of the application of modern technologies to the operation of the Apostille Convention. In particular throughout the use of e-Registers and / or e-Apostilles, taking as basis the Spanish software model and considering the experience of other States in the Ibero-American region in applying modern technologies to the operation of the Apostille Convention. The event was particularly useful for participants from Chile, Costa Rica, Nicaragua and Uruguay, as at the time of the event they were actively considering joining the Apostille Convention and wanted to assess the prospective implementation of modern technologies from the start.

It is useful to note the model of this form of training, in which the Spanish National Development Aid Agency took the initiative in organising, funding and bringing together participants from the Latin American region to share their expertise gained from implementing the e-APP in Spain.

e) Technical assistance activities

1965 Service Convention

The Permanent Bureau, with the assistance of its Latin American Office, provided technical assistance to Mexico to improve the operation of the 1965 Service Convention. Within the context of this work, a workshop was hosted by the *Consultoría Jurídica* of the Ministry of Foreign Affairs of Mexico and collaboration with the Permanent Bureau and the Central Authority of Mexico (Directorate-General of Legal Affairs of the Ministry of Foreign Affairs) on 28 November 2011. The main purpose of this workshop was to review aspects relating to the practical operation of the Service Convention in Mexico. The event was attended by over 140 experts, judges, government officials, process servers, professors and members of the Permanent Bureau and produced useful conclusions and recommendations.

1961 Apostille Convention

The Permanent Bureau, with the assistance of its Latin American Office, has provided technical assistance regarding proper implementation of the Apostille Convention to Costa Rica (2011), the Dominican Republic (2008) and Peru (2010). In both Costa Rica and the Dominican Republic, the Permanent Bureau co-operated with local authorities to organise major seminars. Both the Deputy Secretary General and the Liaison Legal Officer participated and presented at these events.

2. Jurisdiction and enforcement of judgments

The Liaison Legal Officer has assisted First Secretary Marta Pertegas with the promotion of the 2005 Choice of Court Convention as well as with needed research for preparatory work related to the "Judgments Project".

- **Convention of 30 June 2005 on Choice of Court Agreements (Choice of Court Convention)**

a) National seminars and meetings

In October 2006, the Secretary General of the Hague Conference, Mr Hans van Loon, presented the Choice of Court Convention in Argentina at an event organised by the Argentinean Association of International Law (AADI), which took place at Buenos Aires University. In October 2008, First Secretary Marta Pertegas held meetings with the Ministry of Foreign Affairs of Argentina and the Buenos Aires Bar Association to discuss the Choice of Court Convention and its prospective incorporation to the Argentinean system. These efforts may have facilitated the rising interest of Argentina in the Choice of Court Convention, who has afterwards announced that is well advanced in their analysis towards ratification.

The Liaison Legal Officer presented the Choice of Court Convention at events held in Paraguay (at the CEDEP seminar mentioned above) in 2009 and in Costa Rica in 2011. The Ministry of Justice of Costa Rica informed the Permanent Bureau that they are actively studying the possible incorporation of the Choice of Court Convention into the Costa Rican legal system.

On 5 November 2010, a seminar on the settlement of international disputes was held at the *Pontificia Universidade Católica do Rio de Janeiro* ("PUC Rio") in Rio de Janeiro, Brazil. The focus of the PUC Rio seminar was on three multilateral instruments dealing with the settlement of international disputes: 1) the *United Nations Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards* ("New York Convention"); 2) the Hague Choice of Court Convention; and 3) the *MERCOSUR Buenos Aires Protocol of 5 August 1994 on International Jurisdiction in Contractual Matters* ("Buenos Aires Protocol"). The seminar was attended by approximately 70 participants,

including government officials, legal practitioners, arbitrators, academics and students, as well as representatives from the Permanent Bureau. The seminar gave participants the opportunity to share experiences of international dispute settlement, and to critically examine the operation of these three important multilateral instruments. In particular, participants were informed of: *i*) the parallels between the Choice of Court Convention and the New York Convention, and the goal of the former to achieve for international litigation the certainty and security that the latter has successfully achieved for international arbitration; and *ii*) the benefits of the Choice of Court Convention as an international counterpart to the Buenos Aires Protocol in improving judicial co-ordination in civil and commercial cases and providing greater predictability about the venue for litigation and the enforceability of foreign judgments.

b) International events and co-operation with other institutions

Brazilian Ministry of Justice, MERCOSUR and ASADIP

On 8 November 2010, a Joint Seminar on Choice of Court in International Litigation was organised by the Brazilian Ministry of Justice (as President pro tempore of MERCOSUR) and the Hague Conference, with the assistance of the Latin American Office. The Joint Seminar was attended by government officials, judges and other experts from Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico Paraguay, Peru and Uruguay, , as well as by representatives of ASADIP and the Permanent Bureau (First Secretary Marta Pertegas and the Liaison Legal Officer). At the seminar, experts acknowledged the benefits of the Choice of Court Convention and recognised the potential for domestic application in harmony with corresponding regional instruments.

c) The Judgments Project

In 2010 and 2011, ASADIP included special slots within the programmes of their annual meetings for discussion of the work of the Hague Conference. The Permanent Bureau, with the assistance of the Latin American Office, took advantage of these opportunities to discuss with Private International Law experts from the region their views on the possible resumption of the Judgments Project. For this purpose, questionnaires and background documents were prepared by the Permanent Bureau and circulated among experts in advance to ASADIP meetings. These exercises resulted in fruitful discussions and interesting conclusions, which were subsequently incorporated in the preparatory work developed by the Permanent Bureau for meetings of the Council on General Affairs and Policy.

It should be noted that Latin American experts have consistently supported the continuation of the Judgments Project, and have expressed their will to consider the development of a modern global Convention favouring the maximum recognition of foreign judgments.