

**CONCLUSIONS ET RECOMMANDATIONS DE LA QUATRIÈME CONFÉRENCE RÉGIONALE
ASIE PACIFIQUE (DISPONIBLE EN ANGLAIS UNIQUEMENT)**

26-28 octobre 2011, Manille, Philippines

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**CONCLUSIONS AND RECOMMENDATIONS OF THE FOURTH ASIA PACIFIC
CONFERENCE**

26-28 October 2011, Manila, Philippines

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**The Fourth Asia Pacific Conference
of the Hague Conference on Private International Law:
THE WORK OF THE HAGUE CONFERENCE
ON PRIVATE INTERNATIONAL LAW
Manila, Philippines
26-28 October 2011**

CONCLUSIONS AND RECOMMENDATIONS

28 October 2011

From 26 to 28 October 2011, over 230 delegates and participants from Australia, Bahrain, Bhutan, Brunei Darussalam, Cambodia, China, Fiji, India, Indonesia, Japan, Republic of Korea, Lao PDR, Malaysia, Myanmar, Nepal, New Zealand, Philippines, Qatar, Saudi Arabia, Samoa, Sri Lanka, Thailand, Timor-Leste, United Arab Emirates, Vanuatu and Vietnam, together with observers from Iraq, United States of America and the Association of South East Asian Nations (ASEAN) Secretariat, and judicial officers, academics, other professionals, representatives from non-governmental organizations and members of the Permanent Bureau of the Hague Conference on Private International Law (the Hague Conference) met in Manila, Philippines, to discuss the relevance, implementation and practical operation of a number of important Conventions of the Hague Conference (the Conventions) within the Asia Pacific Region (the Region).

The Manila Conference focused on the areas of family law and legal cooperation and litigation, with particular emphasis on the *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Intercountry Adoption Convention) and the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention). It also considered private international law aspects of temporary and circular economic migration.

Presentations were also given on the Hague Conventions of *15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, of *18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*, of *25 October 1980 on International Access to Justice*, of *30 June 2005 on Choice of Court Agreements*, of *25 October 1980 on the Civil Aspects of International Child Abduction*, 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*, and of *23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* and its *Protocol* on the law applicable to maintenance obligations; as well as on the Hague Conference's on-going work on choice of law in international commercial contracts.

In doing so, the Manila Conference advanced the work and achievements of the previous regional conferences "Asia Pacific Regional Conference of the Hague Conference on Private International Law: International Cooperation through Hague Conventions in the Asia Pacific" held from 24 to 26 September 2008 in Hong Kong, the "Asia Pacific Regional Meeting on the Work of the Hague Conference on Private International Law" held from 27 to 29 June 2007 in Sydney and "An Introduction to the Hague Conventions: Seminar on Fostering the Rule of Law in Cross-Border/Transnational Civil and Commercial Relations in the Asia Pacific" held from 22 to 24 August 2005 in Kota Kinabalu.

NOTING the diversity of legal traditions in the Region and the considerable economic growth within the region since the first Regional Conference was held in Kota Kinabalu;

RECOGNIZING that the growing mobility of individuals, goods, services and investments, and the increasing use of information technology around the globe in the Region, have increased cross-border transactions in the areas of family, civil and commercial law;

RECOGNIZING that the application of the Hague Conventions provide legal certainty and predictability, and protection of individual rights and legitimate commercial interests; and

RECALLING the Conclusions of the Third Asia Pacific Regional Conference in 2008;

THE MANILA CONFERENCE

WELCOMED the Philippines as the newest member of the Hague Conference in the Region;

WELCOMED the increase in the number of Asia Pacific States which have become Contracting States to Hague Conventions;

RECOMMENDED that all States in the Region consider becoming members of the Hague Conference as well as Contracting States to the Conventions;

REAFFIRMED the Conclusions of the Third Asia Pacific Regional Conference in 2008;

RECOGNIZED the valuable opportunity afforded by the Regional Conference to participants:

- to gain a greater understanding of the implementation and practical operation of the Conventions in the context of different legal systems in the Region;
- to appreciate the role of the Conventions as an important basis for furthering international cooperation among different legal systems; and
- to meet and share experiences and expectations within the framework of the Hague Conference;

RESOLVED to share the information and other benefits obtained from the Manila Conference with responsible national organs, professional associations and other relevant bodies and individuals in their jurisdictions; and

AGREED to continue holding regional meetings in the Asia Pacific on a regular basis.

THE MANILA CONFERENCE

In relation to the *1993 Intercountry Adoption Convention*:

1. Recognized that intercountry adoption should be seen as a shared responsibility of the States of Origin and the Receiving States, to ensure the successful operation of the Convention in the Region;
2. Acknowledged that the Philippines has provided excellent leadership in the development of good practices in the implementation of the Convention, by emphasizing the best interests of the child as the primary consideration in intercountry adoptions; and
3. Acknowledged the importance of the Convention as the appropriate legal and administrative framework for intercountry adoption and encouraged Non-Contracting States to consider acceding to the Convention.

In relation to the *1961 Apostille Convention*:

1. Recognized that the Convention greatly facilitates the efficient and speedy authentication of public documents emanating from one Contracting State to be produced in another Contracting State;
2. Recognized the role of the Convention in facilitating foreign investment, as emphasized by the World Bank;
3. Emphasized the critical role of the Competent Authorities in giving efficacy to the Convention and its operation, and in that regard noted the importance of continuing training for staff; and
4. Recognized the increasing acceptance and use of e-Registers and e-Apostilles and encouraged newly acceding States as well as other Contracting States to implement this technology.

In relation to the *1965 Service Convention* and *1970 Evidence Convention*:

1. Noted that these Conventions simplify and expedite the transmission of requests for the service of process and the taking of evidence abroad as well as the speedy execution of those requests;
2. Encouraged Contracting States to share experience and harmonize implementation of these Conventions, with the view to further increasing their efficiency; and
3. Noted the complementary nature of these Conventions with regional and bilateral mutual legal assistance agreements.

In relation to the *1980 International Child Abduction Convention* and *1996 International Child Protection Convention*:

1. Reaffirmed the relevance in the Region of these Conventions and the importance of international cooperation for the protection of children moving across borders;
2. Welcomed the current efforts made by the Republic of Korea towards acceding to the *1980 Convention* and encouraged other States in the Region to become parties to follow this example;
3. Recognized the value of the Hague International Network of Judges in facilitating the implementation of the *1980 Convention* and encouraged the active participation of judges in direct judicial communication; and
4. Affirmed the benefits of mediation and other forms of amicable resolution to resolve cross-border family law disputes and welcomed the forthcoming guide to good practice and mediation.

In relation to the *2007 International Recovery of Child and Family Support Convention*:

1. Recognized the importance of the Convention and its Protocol as the appropriate administrative and legal framework for the recovery of child support and other forms of family maintenance and encouraged States in the Region to become Contracting States to the Convention and its Protocol; and
2. Acknowledged the role of the Convention in inviting reforms to domestic systems for the recovery of child support and other forms of family maintenance in the Region.

In relation to the *2005 Choice of Court Convention* and *Ongoing Work on Recognition and Enforcement of Foreign Judgment*:

1. Acknowledged the benefits of legal certainty and predictability provided by the Convention to foster civil and commercial interactions in the Region in the interests of trade and investment;
2. Acknowledged the nature of the Convention as an instrument to consolidate the international litigation system, in parallel to the international arbitration system, in particular the *1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards*;
3. Noted with interest that parallel legislation on trans-Tasman proceedings, which will soon enter into force in Australia and New Zealand implement key aspects of the Choice of Court Convention; and
4. Acknowledged the importance of harmonized rules on the recognition and enforcement of foreign judgments at the regional and global level, and in particular the possibility of States in the Region engaging in the ongoing work of the Hague Conference in this area.

In relation to the *1980 Access to Justice Convention*:

1. Noted with interest the large scope of this Convention, which includes among others, equal treatment of nationals and residents of Contracting States in respect of legal aid, security for costs and enforceability of orders for costs, in cross-border situations; and
2. Acknowledged the relevance of the Convention for the Region, in particular for those States with a large number of migrant workers abroad.

In relation to the *Hague Principles on the Choice of Law in International Commercial Contracts*:

1. Noted with interest the basic purpose and value of these *Principles* which consist of promoting the principle of party autonomy in cross-border business-to-business transactions; and
2. Recognized the progress made in the development of the draft Principles and look forward to their completion.

In relation to *Technical Assistance*:

1. Acknowledged the valuable services and technical assistance provided by the Permanent Bureau in relation to the Conventions.

THE MANILA CONFERENCE

In relation to *Temporary and Circular Economic Migration*:

1. Considered the application and uses of the Hague Conference techniques in developing a multilateral legal framework for cross-border cooperation on economic migration, and in particular on the development of temporary and circular migration programs between States of Origin and Receiving States; and
2. Noted with interest the proposal to study the application of such techniques in the areas of social security, mutual recognition of competencies, remittances, licensing and the monitoring of intermediaries involved in facilitating international migration.

In relation to the *Establishment of the HCCH Asia Pacific Regional Office*:

1. NOTING the success of the HCCH Regional Office in Latin America;
2. RECALLING Paragraph 30 of the Conclusions of the Third Asia Pacific Regional Conference in 2008, which “agreed to encourage the Permanent Bureau, in cooperation with member States in the Region, to consider ways in which its presence and representation in the Region might be strengthened”;
3. RECOGNIZING the need for and value of the proposed establishment of an Asia Pacific Regional Office of the Hague Conference in Hong Kong, China (“Proposal”); and
4. NOTING the overwhelmingly positive responses by Member States in the Region to the questionnaire jointly prepared by Australia, China and the Philippines issued on 04 August 2011 relating to the Proposal as well as the firm support for it expressed by many delegations during a plenary session and the working lunch roundtable on the matter;

AGREED to support the Proposal as an excellent measure to strengthen the presence of the Hague Conference in the Region and encouraged the early establishment of the Regional Office as soon as practicable in the next year.

The delegates and participants of the Manila Conference recognized its successful conduct and acknowledged the exceptional organization of the Conference by the Department of Foreign Affairs, the University of the Philippines College of Law and the Philippine Judicial Academy. They congratulated the University of the Philippines College of Law on its Centennial Celebrations and expressed their warm thanks and appreciation for the inclusion of the Regional Conference in their commemorative programme. The Manila Conference particularly thanked the Philippine Government and the Permanent Bureau for their generosity and efficiency in staging this important and significant event. The delegates and participants thanked the administrative and support staff for their untiring work and invaluable contribution to the success of this Conference.