

CONCLUSIONS & DECISIONS

ADOPTED BY CGAP

1. The Council on General Affairs and Policy (CGAP) met from 3 to 6 March 2020, with attendance from 68 HCCH Members including one Member REIO, seven non-Member States and other observers from four IGOs / nine NGOs.¹

Ceremonies relating to Membership and joining HCCH Conventions

2. CGAP witnessed:
 - the deposit of the instrument of acceptance of the Statute by the Dominican Republic and welcomed it as the 84th Member of the HCCH;
 - the deposit of the instrument of acceptance of the Statute by the Republic of Uzbekistan and welcomed it as the 85th Member of the HCCH;
 - the proposal by the Government of the Kingdom of the Netherlands to admit the Republic of Nicaragua as a Member of the HCCH and the opening of the six-month voting procedure by the Secretary General;
 - the proposal by the Government of the Kingdom of the Netherlands to admit the Kingdom of Thailand as a Member of the HCCH and the opening of the six-month voting procedure by the Secretary General;
 - the deposit, by the Republic of the Philippines, of its instrument of accession to the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*;
 - the deposit, by the Socialist Republic of Viet Nam, of its instrument of accession to the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*; and
 - the signing, by Ukraine, of the *Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters*.

¹ These included the following Members of the HCCH: Albania, Andorra, Argentina, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Canada, Chile, People's Republic of China, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, European Union, Finland, France, Georgia, Germany, Greece, Hungary, India, Ireland, Israel, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Monaco, Morocco, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Poland, Portugal, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan, Venezuela and Viet Nam; and the following Observers: Colombia, Indonesia, Lebanon, Namibia, Nicaragua, Thailand and United Arab Emirates; and representatives for Intergovernmental Organisations: International Commission on Civil Status (ICCS), International Institute for the Unification of Private Law (UNIDROIT), Mercosur and United Nations Commission on International Trade Law (UNCITRAL), United Nations Committee on the Rights of the Child (UNCRC); and representatives for non-Governmental Organisations: American Association of Private International Law, Council of Bars and Law Societies of Europe (CCBE), European Law Institute (ELI), International Association of Consumer Law (IACL), International Bar Association (IBA), International Swaps and Derivatives Association (ISDA), International Union of Judicial Officers (UIHJ), International Union of Notaries (IUNL), P.R.I.M.E. Finance Foundation and The Hague Academy of International Law.

Collection of Instruments (Statute, Conventions, Protocols, Principles)

3. CGAP welcomed the publication of the updated and revised 9th edition of the Collection.

Work relating to possible new instruments

Tourists and Visitors Project

4. CGAP welcomed the report of the Experts' Group and thanked Dr Nino Sievi (consultant) for his informative report. CGAP invited the Permanent Bureau (PB) to convene an additional meeting of the Experts' Group to study further the conclusions of the consultant. CGAP encouraged the Experts' Group to focus its work, at least initially, on the necessity, desirability, and feasibility of a soft law instrument on matters relating to online dispute resolution. CGAP welcomed the offer of UNCITRAL to assist the work of the Experts' Group. The Experts' Group will report to CGAP at its 2021 meeting. CGAP thanked Brazil for its voluntary contribution towards this Project and agreed that the consultant should continue to be engaged in the discussions.

Parentage / Surrogacy Project

5. CGAP welcomed the report of the Experts' Group and endorsed the continuation of its work as proposed, noting that work should focus on developing both:
 - a general private international law instrument on the recognition of foreign judicial decisions on legal parentage; and
 - a separate protocol on the recognition of foreign judicial decisions on legal parentage rendered as a result of an international surrogacy arrangement.
6. CGAP agreed that at least two meetings of the Experts' Group should be convened prior to the 2022 meeting of CGAP, and that intersessional work be carried out with the assistance of a smaller group of experts.
7. The Experts' Group will continue to develop potential provisions for inclusion in both possible future instruments as set out in its report and, in particular, will continue its discussions on the feasibility of including provisions, in both the Convention and the Protocol, in relation to applicable law rules, public documents and cooperation.
8. CGAP underlined that any work by the HCCH in relation to international surrogacy arrangements should not be understood as supporting or opposing surrogacy.
9. The Experts' Group will provide a short update on progress to CGAP at its 2021 meeting and will provide a full report at its 2022 meeting.

Family Agreements

10. CGAP noted the ongoing revision, with the assistance of the Experts' Group and in consultation with the HCCH Members, of the draft *Practical Guide on cross-border recognition and enforcement of agreements reached in the course of family matters involving children*, in line with C&R 19 of its 2019 meeting. CGAP mandated the PB to make arrangements for a further meeting of the Experts' Group to discuss a revised draft of the Practical Guide. Upon finalisation by the Experts' Group, the draft Practical Guide will be circulated for approval to HCCH Members. In the absence of any objection within one month, the draft Practical Guide will be taken to be approved; in the case of one or more objections, the PB will immediately notify the HCCH Members of any objections and the draft Practical Guide will be put to CGAP at its 2021 meeting.

11. CGAP noted the overview of the findings of the Experts' Group on cross-border recognition and enforcement of agreements in family matters involving children. CGAP agreed that the Experts' Group would monitor developments, on a voluntary basis, in relation to the use of the Practical Guide if approved.

Jurisdiction Project

12. CGAP welcomed the report of the third meeting of the Experts' Group on Jurisdiction held in February 2020. CGAP mandated the PB to make arrangements for two further meetings of the Group prior to the 2021 meeting of CGAP. CGAP further invited the PB to explore the possibility of holding one of these meetings outside of the Netherlands, in cooperation with either the Regional Office for Latin American and the Caribbean (ROLAC) or the Regional Office for Asia and the Pacific (ROAP), taking into account budgetary considerations.
13. With a view to supporting the Expert's Group, CGAP mandated the PB to conduct further work and consultations, including the development of a questionnaire on how parallel proceedings and, in particular, issues pertaining to related actions or claims, are addressed in different jurisdictions. HCCH Members are invited to share relevant information in this regard with the PB.

Private International Law and Intellectual Property

14. Subject to the availability of resources, CGAP invited the PB to continue its close cooperation with the International Bureau of WIPO, including on the preparation of a questionnaire, with a view to identifying actual and practical issues of private international law faced by practitioners in cross-border intellectual property dealings. The PB will report to CGAP at its 2022 meeting.

Distributed Ledger Technology (DLT)

15. CGAP invited the PB, subject to available resources, to monitor developments with respect to the private international law implications of DLT. The PB will report to CGAP at its 2021 meeting.

Post-Convention activities

1980 Child Abduction and 1996 Child Protection Conventions

Working Group on Article 13(1)(b)

16. CGAP thanked the Working Group and noted the approval of the *Guide to Good Practice on Article 13(1)(b)* on 12 December 2019. CGAP welcomed the forthcoming publication of the Guide.

Malta Process and related Working Party on Mediation

17. CGAP noted recent developments concerning the Malta Process, including the steps taken to make information about the Malta Process more readily available, and welcomed the report of Canada as co-Chair of the Working Party on Mediation within the Malta Process.

INCADAT and INCASTAT

18. CGAP invited HCCH Members to designate a national INCADAT correspondent and to consider the possibility of voluntary contributions towards the maintenance and operation of INCADAT.

19. CGAP mandated the PB to begin preparations for a statistical study to inform the next meeting of the Special Commission (SC) on the practical operation of the 1980 Child Abduction Convention, tentatively planned for 2023. CGAP invited HCCH Members to ensure, where possible, that Central Authorities update their INCASTAT data on a regular basis.

Unaccompanied and Separated Children

20. CGAP approved the revised version of Preliminary Document 7 of February 2020 (*"The application of the 1996 Hague Child Protection Convention to unaccompanied and separated children"*) drawn up for the attention of the seventh meeting of the SC on the practical operation of the 1980 Child Abduction and 1996 Child Protection Conventions in line with C&R 19 of the 2018 meeting of CGAP. CGAP thanked the experts involved in the finalisation of the document and asked the PB to publish it on the HCCH website.

International Hague Network of Judges (IHNJ) and Direct Judicial Communications

21. CGAP noted the preparations for, and the possible rescheduling of, the 4th Global Meeting of the IHNJ and the HCCH Judicial Roundtable.

2007 Child Support Convention (incl. iSupport) and its Protocol

Special Commission Meeting

22. CGAP mandated the PB to continue the preparations for the first meeting of the SC on the practical operation of the 2007 Child Support Convention and its Protocol. CGAP invited the PB to make arrangements for a meeting of a Working Group prior to the SC to discuss applicable law issues. The findings of the Working Group will inform the work of the SC.
23. Noting the low number of responses to the questionnaires circulated in preparation for the SC, CGAP decided to extend the deadline for responses until 17 April 2020.
24. CGAP decided to postpone the first meeting of the SC tentatively scheduled for June 2020 and invited the PB to make arrangements for a meeting before the end of 2020. In light of the financial implications of holding the SC meeting in the next financial year, CGAP recommended that, if possible under the *Financial Regulations*, the Council of Diplomatic Representatives authorise the Secretary General to carry over the funds allocated in the current financial year, as well as to use some of the surplus of Financial Year 2018-2019. CGAP invited the Secretary General to explore further savings in the draft Budget to meet any remaining costs.

International transfer of maintenance funds

25. CGAP mandated the Experts' Group on international transfer of maintenance funds to continue its work and invited the PB to make arrangements for a further meeting of the Experts' Group by videoconference. The findings of the Expert's Group will inform the work of the SC.

iSupport

26. CGAP welcomed the update of the PB on iSupport, in particular the announcement of the first exchange of data through e-CODEX between Germany and Norway.

1993 Adoption Convention

Special Commission Meeting

27. CGAP noted the progress made in organising the fifth meeting of the SC on the practical operation of the 1993 Adoption Convention, to be held in May / June 2021. CGAP noted the possible topics recommended by HCCH Members and Contracting Parties in their responses to the questionnaire on this matter.

Working Group on Preventing and Addressing Illicit Practices

28. CGAP welcomed the report of the Working Group and supported the continuation of its work. CGAP invited the PB to make arrangements for a further meeting of the Working Group, to be held in May 2020.

Corrigendum to the French version of the Explanatory Report

29. CGAP approved the issuance of a corrigendum with respect to the French version (translation) of the Explanatory Report and the Guide to Good Practice No 1, as outlined in Preliminary Document 29.

Intercountry Adoption Technical Assistance Programme (ICATAP)

30. CGAP noted the importance of technical assistance in relation to the implementation and operation of the 1993 Adoption Convention and the need to secure funding to continue ICATAP.

2000 Protection of Adults Convention

31. CGAP noted the progress made in organising the first meeting of the SC on the practical operation of the 2000 Protection of Adults Convention, to be held in May / June 2022. CGAP noted the possible topics recommended by HCCH Members in their responses to the questionnaire on this matter and encouraged the PB to focus its preparations on those topics identified as being of high interest, including by developing a Practical Handbook and, resources allowing, a Country Profile.

International legal cooperation and litigation

1961 Apostille Convention

SC Meeting and 12th International Forum on the electronic Apostille programme (e-APP)

32. CGAP noted the progress made in organising the next meeting of the SC on the practical operation of the Apostille Convention, scheduled for 6 to 8 October 2021 and to be preceded by the 12th e-APP Forum on 5 October 2021. CGAP also commended Brazil for the successful organisation of the 11th e-APP Forum and its offer to provide support to other Contracting Parties in the implementation of the e-APP.

Experts' Group

33. Having regard to the invitation of the 11th e-APP Forum, CGAP invited the PB to convene an Experts' Group to further explore whether broader use of new technologies, including DLT, may further enhance the e-APP, in particular in relation to e-Registers. The findings of the Expert's Group will inform the work of the SC.

1965 Service and 1970 Evidence Conventions

Use of Information Technology (IT) under the Service and Evidence Conventions

34. CGAP thanked the Experts' Group and noted the approval of the *Guide to Good Practice on the Use of Video-Link under the Evidence Convention* on 14 June 2019. CGAP welcomed the forthcoming publication of the Guide, the circulation of the questionnaires on the use of IT under the Service and Evidence Conventions, as well as the inaugural edition of *HCCH a/Bridged*. CGAP endorsed the continuation of work in this area and encouraged the PB to leverage the milestone anniversaries of the Service, Evidence and Access to Justice Conventions when planning research activities, publications, and events. The PB will report to CGAP at its 2021 meeting.

2005 Choice of Court and 2019 Judgments Conventions

35. CGAP noted the update on the promotion of the 2005 Choice of Court and 2019 Judgments Conventions and encouraged the PB to continue raising awareness of the Conventions at the global level. HCCH Members are invited to suggest activities to promote the Conventions, including contributing to new translations.
36. CGAP noted that the PB will continue to assist the *co-Rapporteurs*, Professors Francisco Garcímartín and Geneviève Saumier, in the finalisation of the Explanatory Report on the 2019 Judgments Convention. CGAP took note of the approval process of the Explanatory Report adopted by the Twenty-Second Diplomatic Session.

Recommended Form

37. CGAP approved a revised version of the Recommended Form designed to facilitate the recognition and enforcement of foreign judgments under the 2019 Judgments Convention and encouraged the PB to promote the future use of the Form. The revision affirms that a final determination regarding whether there is an obligation under the Convention should be made based on the provisions of the Convention.

International Commercial and Finance Law

2015 Principles on Choice of Law, 1985 Trusts and 2006 Securities Conventions

38. CGAP noted the continuing engagement of the PB with relevant stakeholders to raise awareness of the Principles and promote their wider use in the context of the 5th anniversary of their adoption.
39. Recalling C&R 44 of its 2019 meeting and subject to the overall Work Programme, CGAP invited the PB to commence research and preparations in relation to the commercial and financial law questionnaire and the possible international conference to be held in late 2022, coinciding with the 30th anniversary of the entry into force of the Trusts Convention.

Cooperation with UNCITRAL, UNIDROIT, WIPO and other International Organisations

Insolvency

40. CGAP endorsed the participation of the PB at the UNCITRAL colloquium in May 2020 on applicable law in insolvency proceedings.
41. Subject to the outcome of the deliberations on the applicable law in insolvency proceedings at the Fifty-third Session of UNCITRAL, CGAP invited the PB to continue the close cooperation

with the Secretariat of UNCITRAL, with a view to making arrangements for consultations on possible future work related to the rules of private international law relating to insolvency. The PB will provide an update to CGAP at its 2021 meeting.

Legal Guide to Uniform Legal Instruments in the Area of International Commercial Contracts (with a focus on Sales)

42. CGAP approved the first three chapters of the *Legal Guide to Uniform Legal Instruments in the Area of International Commercial Contracts (with a focus on Sales)* and invited the PB to cooperate with the Secretariats of UNCITRAL and UNIDROIT in its finalisation. CGAP thanked the five experts, Professors Neil Cohen (USA), Lauro da Gama e Souza Jr (Brazil), Hiroo Sono (Japan), Pilar Perales Viscasillas (Spain) and Stefan Vogenauer (Germany), for their generous contributions towards the preparation of the Legal Guide.
43. CGAP invited the PB to cooperate with the Secretariats of UNCITRAL and UNIDROIT in the publication and subsequent promotion of the Legal Guide.

Report of Regional Offices

44. CGAP welcomed the Reports of the Regional Offices and recognised the excellent services they continue to provide for the HCCH.
45. Recognising his significant contributions to the work of the HCCH in the Asia Pacific, CGAP thanked Mr Frank Poon, the outgoing Representative of ROAP, for his service and wished him a very happy retirement.

Governance of the Organisation

Working Group to consider the future procedure for appointing Secretaries General of the HCCH

46. CGAP welcomed the report of the Working Group and invited it to finalise its work in the form of a governance document based on the discussions during the closed session on this agenda item. CGAP invited the PB to make arrangements for a further meeting of the Working Group. Upon finalisation by the Working Group, the proposed governance document will be circulated for approval to HCCH Members. In the absence of any objection within one month, the document will be taken to be approved; in the case of one or more objections, the PB will immediately notify the HCCH Members of any objections and the proposed governance document will be put to CGAP at its 2021 meeting.

Working Group on the Rules of Procedure of the HCCH

47. CGAP welcomed the report of the Working Group and approved a revised version of the Rules of Procedure. CGAP thanked the Chair of the Working Group, H.E. Marcin Czepelak, Ambassador of Poland to the Netherlands, as well as the members of the Working Group.

Framework for the Establishment of Regional Offices

48. CGAP welcomed the report of the Working Group and approved the Framework. CGAP thanked the Chair of the Working Group, H.E. María Teresa Infante Caffi, Ambassador of Chile to the Netherlands, as well as the members of the Working Group.

Proceedings of the HCCH: Update / Production of Minutes for Meetings

49. CGAP welcomed the update on the preparation of the *Proceedings* and their forthcoming publication.

50. CGAP noted the adjustments made by the PB in producing minutes for meetings and, taking into account the feedback provided by HCCH Members, including on the special nature of traditional minutes, approved the continuation of the trial until the 2021 meeting of CGAP.

List of Observers at HCCH Meetings

51. CGAP adopted the List of Observers pursuant to II.J.2 and II.J.3 of the Rules of Procedure. CGAP noted that the *Organisation internationale de la Francophonie* (OIF) would continue to be invited to meetings of the HCCH and that CGAP would consider its inclusion on the List of Observers in 2021.

Geographic Representation at the HCCH

52. Reaffirming the principles of universality and inclusiveness, CGAP recorded its strong and active commitment to ensuring appropriate geographic representation at the HCCH. Recognising the importance of this issue, CGAP agreed to maintain this item on the agenda for its 2021 meeting.

Resource Allocation at the PB

53. CGAP noted the allocation of resources for 2019, as well as the historical data provided by the PB. CGAP noted the envisaged transition to a new method of time recording, which will improve consistency of data and reduce costs.

Financial Matters

54. CGAP noted the Secretary General's update concerning the Draft Budget and Explanatory Notes for Financial Year 2020-2021 (see also para. 23).
55. CGAP noted the update on Voluntary Contributions received during 2019 and thanked the contributors.

Other Business

56. CGAP noted the report of the PB in relation to leveraging, where appropriate, the United Nations Sustainable Development Goals (SDGs), in particular SDG 16, to further the Strategic Priorities of the HCCH.
57. CGAP welcomed the launch of the new electronic library catalogue and its availability to HCCH Members.
58. CGAP noted the announcement of the Chair of his intention to step down as Chair at the conclusion of the 2021 meeting of CGAP.