

**CRÉATION D'UN COMITÉ PERMANENT DE COOPÉRATION
ENTRE AUTORITÉS CENTRALES EN VERTU DE
LA CONVENTION DE 2007 SUR LE RECOUVREMENT DES ALIMENTS**

établi par le Bureau Permanent

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**ESTABLISHMENT OF A STANDING
CENTRAL AUTHORITY CO-OPERATION COMMITTEE
UNDER THE 2007 CHILD SUPPORT CONVENTION**

drawn up by the Permanent Bureau

*Document préliminaire No 7 d'octobre 2009 à l'intention
de la Commission spéciale de novembre 2009 sur la mise en œuvre de
la Convention de 2007 sur le recouvrement des aliments et
du Protocole de 2007 sur la loi applicable aux obligations alimentaires*

*Preliminary Document No 7 of October 2009 for the attention
of the Special Commission of November 2009 on the implementation of
the 2007 Child Support Convention and of
the 2007 Protocol on the Law Applicable to Maintenance Obligations*

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Introduction

1. The Twenty-First Session of the Hague Conference recognised that the Administrative Co-operation Working Group (ACWG) had provided a prototype¹ for the kind of continuing international co-operation and networking which, particularly among the Central Authorities appointed under the new Convention, will be needed if the Convention is to be a success. In this respect, the following recommendation was adopted by consensus by the Twenty-First Session:²

“The Twenty-First Session,

[...]

5. Recommends that the Administrative Co-operation Working Group should on an interim basis continue its work as a forum for discussion of issues of administrative co-operation and that consideration be given by the Council on General Affairs and Policy to the establishment of a standing Central Authority Co-operation Committee.”

2. Before discussing the establishment of a standing Central Authority Co-operation Committee, it may be useful to introduce the ACWG.

The Administrative Co-operation Working Group³

3. A Working Group for discussing and exchanging information on the operational aspects of State co-operation was proposed and set up at the end of the first Meeting of the Special Commission on the International Recovery of Child Support and other Forms of Family Maintenance.⁴ The proposal was widely supported. What was then an informal Working Group became, at the end of the second Meeting of the Special Commission,⁵ the ACWG. The Working Group’s role as a formal committee, assisted by the Permanent Bureau, with an expanded number of co-convenors and sub-committee co-chairs, was to support the work of, and to report formally to, the Special Commission. From 2003 until 2007, approximately 60 experts from 24 States and organisations attending the Special Commission have participated in the work of the ACWG.⁶

Membership

4. Any Member of the Hague Conference and any State or international organisation invited to participate in the Special Commission on the International Recovery of Child Support and other Forms of Family Maintenance was welcome to take part in the Working Group.

Goals – Work programme

5. The ACWG had two main goals:

- to improve administrative co-operation among those countries that handle international child support and other forms of family maintenance; and
- as appropriate, to develop possible recommendations on administrative co-operation for the Special Commission meetings.

¹ The establishment of a standing Central Authority Co-operation Committee under the 2007 Child Support Convention could in the future serve as a model for the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* 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*.

² Final Act of the Twenty-First Session of the Hague Conference on Private International Law, The Hague, 23 November 2007, Part C.

³ See “Report of the Administrative Co-operation Working Group”, Prel. Doc. No 34 of October 2007 for the attention of the Twenty-First Session of November 2007, prepared by the Administrative Co-operation Working Group which met in January, March and September 2007, “Report of the Monitoring and Review of the Operation and Implementation of the Convention Sub-Committee”, p. 9, paras 3-9.

⁴ 5 – 19 May 2003.

⁵ 7 – 18 June 2004.

⁶ Twenty-First Session, Commission I, Minutes No 14, para. 22.

6. These goals were based on the assumption that improving administrative co-operation among countries is the key to improving enforcement of international child support and other forms of family maintenance.

7. The main items discussed and recommendations and conclusions made by the ACWG between Special Commission meetings were agreed by the Special Commission. Specific agenda items were developed by the co-convenors in co-ordination with the Permanent Bureau.

Structures

8. The ACWG was structured as a working group, and decisions were reached by group consensus. Mary Helen Carlson (United States of America), Mária Kurucz (Hungary) and Jorge Aguilar Castillo (Costa Rica) were appointed by the Special Commission as co-convenors of the Working Group. Co-convenors each represented a different region.⁷ Members of the Permanent Bureau served as facilitators.

9. Sub-committees were utilised in order to focus on priority topics that were identified by the Working Group and endorsed by the Special Commission.⁸ The Sub-committees were made up of volunteers from the numerous States and international organisations invited to participate in the Special Commission.

Working methods

10. The ACWG met by teleconferences and communicated via e-mail and listserv between Special Commission meetings. Teleconferences were in fact conducted in English though facilities were available on request for interpretation into French and Spanish.

11. Sub-committees met more frequently, also by teleconference calls, and communicated in the same fashion. In-person meetings were held in Ottawa in March 2006 and in London in March 2007 thanks to the assistance of the Government of Canada.

12. Where a country had more than one delegate attending a meeting, only one person per delegation was allowed to take the floor. This made meetings very efficient.

13. Minutes of meetings were circulated after each call and adopted at the next call. The ACWG and its Sub-Committees reported to each meeting of the Special Commission.

Costs

14. Costs of the order of 50,000 US \$ – funded thanks to the Office for Child Support Enforcement of the Government of the United States of America – consisted in administrative assistance (organising conference calls, maintaining a list of participants, distributing documents and taking minutes) and conference call facilities.

Proposal for a standing Central Authority Co-operation Committee

15. The establishment of a standing Central Authority Co-operation Committee has been discussed and recommended by the Monitoring and Review of the Operation and

⁷ Jennifer Degeling represented the Asia-Pacific Region as a co-convenor from May 2003 to February 2005. Since the Diplomatic Session of November 2007, the co-convenors of the ACWG have changed. Mária Kurucz has been replaced by Matthias Heger (Germany) and Jorge Aguilar Castillo has been replaced by Boni Moraes Soares (Brazil). Finally, Mary Helen Carlson retired from the Department of State on 30 September 2009 and has not been replaced as a co-convenor of the ACWG.

⁸ Sub-Committees dealt with subjects such as: Forms (the Forms Sub-Committee later became a stand-alone Working Group of the Special Commission co-ordinated by the Permanent Bureau), Country Profiles, and Monitoring and Review of the Operation and Implementation of the Convention (dealing with the following issues: time lines, limited assistance, low-cost systems, guides to good practice, case law database, electronic case management and communication systems, collection of statistics and development of a standing Central Authority Co-operation Committee).

Implementation of the Convention Sub-Committee of the ACWG since 2004. In the course of the Special Commission on the International Recovery of Child Support and other Forms of Family Maintenance, the Standing Committee was the subject of two Reports.⁹ It was also the subject of a Report for the attention of the Twenty-First Session of the Hague Conference.¹⁰

16. The idea of a standing committee was well received by the Diplomatic Session, as reflected in the above Recommendation. During the discussion, the point was made that such a committee should be accountable to a permanent body of the Organisation, such as the Council on General Affairs and Policy of the Hague Conference, rather than a Special Commission to review the practical operation of the 2007 Convention that would only meet every four or five years.

17. Building on the work and discussions over several years, the main elements constituting a standing Central Authority Co-operation Committee could be as follows:

Membership

18. Entitlement to membership of the Committee initially would be all States or Regional Economic Integration Organisation (REIO) that participated in the development of the 2007 Child Support Convention and its Protocol as well as any other State considering becoming a Party to the Convention. Once a State becomes Party to the Convention it will be represented on the Committee by its Central Authority or Central Authorities appointed under the Convention. The Permanent Bureau would continue to facilitate (*i.e.*, support and participate)¹¹ in the work of the Committee.

Establishment and functions

19. The Committee would be established by and subject to the control of the Council on General Affairs and Policy of the Conference. It would be primarily a networking body. It would have no power to make binding decisions but could from time to time make recommendations to the Special Commission on the Practical Operation of the 2007 Child Support Convention.

1. Primary functions – Networking

- a) Initially to be a forum for discussing the practical aspects of implementing the 2007 Convention and for promoting the Convention; and,
- b) Later also to be a platform for networking between Central Authorities under the 2007 Convention for discussing issues of administrative co-operation and sharing experience and good practices.

2. Other functions – Working with the Permanent Bureau by

- a) Providing feedback and making observations on the implementation and practical operation of the 2007 Convention, including the gathering of statistics and case law;
- b) Providing assistance to the Permanent Bureau in the work of supporting implementation and monitoring and review of the practical operation of the Convention.

⁹ "Report of the Administrative Co-operation Working Group of the Special Commission of April 2005 on the International Recovery of Child Support and other Forms of Family Maintenance", Prel. Doc. No 15 of March 2005 for the attention of the Special Commission of April 2005 on the International Recovery of Child Support and other Forms of Family Maintenance, prepared by the Administrative Co-operation Working Group which met in November 2004 and January, February and March 2005, "Report of the Monitoring and Review of the Operation and Implementation of the Convention Sub-Committee", p. 52, paras 4-14 (see Annex A for an extract of the Report); "Report of the Administrative Co-operation Working Group of the Special Commission of June 2006 on the International Recovery of Child Support and other Forms of Family Maintenance", Prel. Doc. No 19 of June 2006 for the attention of the Special Commission of June 2006 on the International Recovery of Child Support and other Forms of Family Maintenance, prepared by the Administrative Co-operation Working Group which met in November 2005 and January and May 2006, "Report of the Monitoring and Review of the Operation and Implementation of the Convention Sub-Committee", p. 11, paras 12-19 (see Annex B for an extract of the Report).

¹⁰ Prel. Doc. No 34 of October 2007, *op. cit.* note 3, p. 9, paras 21-27 (see Annex C for an extract of the Report).

¹¹ Including through the Centre for Judicial Studies and Technical Assistance of the Hague Conference.

Work programme – Agenda

20. Main agenda items to be discussed between meetings of the Special Commission would be in line with the above mandate. The Council on General Affairs and Policy could always add items to the agenda between meetings of the Special Commission. Specific agenda items for meetings of the Committee would be developed by the co-convenors in co-ordination with the Permanent Bureau.

Structures

21. The Committee would be structured as a working group, and decisions would be reached by consensus. The Committee would be led by co-convenors each representing a different region. The Committee would designate its own co-convenors. Members of the Permanent Bureau would serve as facilitators.

22. It is suggested that within this Committee there could also be regional sub-committees. For example, regions which have a common language or legal culture could develop their own sub-committees, from which representatives could participate in meetings or conference calls of the larger Committee.

23. Sub-committees could also be utilised in order to focus on priority topics identified as such by the Committee or the Special Commission.

Working methods

24. The Committee would meet primarily through conference calls and communicate by way of e-mails and listserv between meetings of the Special Commission. With regard to languages, a cost effective and pragmatic approach should be followed as was done for the ACWG. Sub-committees would meet in the same way.

25. Where a country would have more than one delegate attending a meeting, as a general rule only one person per delegation would be allowed to take the floor.

26. Minutes of meetings would be circulated for comments after each meeting and adopted during the next meeting. Through the Permanent Bureau, the Committee and its sub-committees would report from time to time to the Council on General Affairs and Policy and to the meetings of the Special Commission on the Practical Operation of the Convention.

Costs

27. The administrative assistance required for the Committee (organising conference calls, maintaining a list of participants, distributing documents and taking minutes) would be covered by the existing Regular Budget of the Hague Conference. On the other hand, in future provision will have to be made in the Regular Budget to cover the costs associated with conference call facilities. Three two-hour conference calls per year for 60 participants (or 60 telephone lines) would cost 3,240.00 Euros.¹²

Recommendation

28. It is proposed that the Special Commission of November 2009 on the implementation of the 2007 Child Support Convention and of the 2007 Protocol on the Law Applicable to Maintenance Obligations make a recommendation to the Council on General Affairs and Policy for the establishment of a standing Central Authority Co-operation Committee, in accordance with the terms of reference described in the present document.

¹² The cost of conference call facilities in the Netherlands is of the order of 15 Euro cents per minute.

ANNEX A

**EXTRACT OF THE MARCH 2005 REPORT
OF THE MONITORING AND REVIEW OF THE OPERATION
AND IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE**

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AND IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE**

PART I - Standing Committee

4. This Sub-committee recommends that there should be established a Standing Committee that will provide a forum for the promotion of co-operation among Central Authorities, and assist the Special Commission (convened under Article 38 of the Working Draft) and the Permanent Bureau in post-Convention monitoring and review activities and in providing implementation assistance. The Standing Committee would not be a fact-finding or adjudicating body, but would follow the mandate set forth below. The Permanent Bureau would co-ordinate the work of the Standing Committee. The Sub-committee is giving further consideration to the question of the formal / informal status of the Committee and to an appropriate procedure by which the Standing Committee should be established. Mandate, membership, structure and possible activities of the Standing Committee would be as follows:

A. Mandate

5. The mandate of the Standing Committee would consist of four parts. First, to provide a forum for promoting co-operation and for the exchange of information concerning the practical operation of the Convention, among the Central Authorities and other bodies responsible for its application.

6. Second, to assist and advise the Permanent Bureau in relation to post-Convention implementation, monitoring and review activities.

7. Third, to give advice to the Permanent Bureau in relation to preparations for Special Commission meetings to review the practical operation of the Convention.

8. Fourth, to assist the Permanent Bureau in the development and promotion of good practices under the Convention.

B. Membership

9. Membership of the Standing Committee would be open to Central Authorities of Contracting States, to States contemplating accession to the Convention and to any Organisation qualifying to participate in Special Commissions on the operation of the Convention.

C. Structure

10. The Standing Committee would meet by conference call, the frequency of which would be determined at a later time.

11. The Standing Committee would establish, as needed, Sub-committees to better address specific topics that are applicable to the mandate of the Standing Committee.

D. Possible activities

12. A Standing Committee would assist the Permanent Bureau by producing, for consideration by the Special Commission convened under Article 38 of the Convention, a report on the activities of the Standing Committee, including recommendations where appropriate.

13. The Committee would also assist Central Authorities implementing the Convention in three ways, first with understanding Convention language with respect to administrative co-operation, second by removing obstacles to the effective operation of the Convention (for example, the goal is to reduce complaints by identifying issues and taking steps to remove barriers and improve performance), and third, by promoting and

facilitating training and dissemination of good practices. In this case, the term ‘training’ includes familiarizing interested parties with the details of the Convention and its underlying principles, as well as identifying and sharing good practices. (For example, a “twinning” arrangement could arise if a developing Central Authority seeks assistance from a developed Central Authority to provide advice, model procedures, training and possibly an exchange of personnel for practical training and experience.)

14. The committee would advise and assist the Permanent Bureau in relation to statistical data collection, analysis and reporting, and the establishment and operation of a case law database.¹

¹ Collection and dissemination of case law is an important activity under for the new Convention because it encourages consistent Convention interpretation. Case law databases are used by Central Authorities, judges, lawyers and individuals and have proven very practical and helpful for previous Conventions. Though developing a case law database would not be an immediate priority for the standing committee, the existing case law database for the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, called “INCADAT,” has been helpful in facilitating the collection and dissemination of international case law relating to Child Abduction. This Sub-committee proposes examining the topic of a case law database in more detail at a later time.

ANNEX B

**EXTRACT OF THE JUNE 2006 REPORT
OF THE MONITORING AND REVIEW OF THE OPERATION
AND IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE**

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PART II – Central Authority Co-operation Committee

12. In the “Report of the Administrative Co-operation Working Group of the Special Commission of April 2005 on the International Recovery of Child Support and other Forms of Family Maintenance”,¹ the idea of a standing or advisory committee was suggested. The Sub-committee has given further consideration to this idea and recommends that there should be established a “Central Authority Co-operation Committee” that will provide a forum for the promotion of co-operation among Central Authorities, and assist the Special Commission (convened under Article 46 of the draft Convention) and the Permanent Bureau in post-Convention monitoring and review activities and in providing implementation assistance.

A. Mandate

13. The Committee is not a decision-making body. Instead, the Committee would make proposals to the Permanent Bureau to be considered as recommendations to the Special Commission. The committee could accomplish this purpose through making observations, problem-solving, collecting best practices, and networking among experts from Central Authorities.

B. Membership

14. Membership of the Central Authority Co-operation Committee will consist primarily of Central Authorities of States entering or considering entering the Convention. Membership is not limited to countries who have acceded or those who participated in the Special Commission meetings.

C. Structure

15. The Central Authority Co-operation Committee would meet by conference call, the frequency of which would be determined at a later time.

16. The Central Authority Co-operation Committee would establish, as needed, Sub-committees to better address specific topics that are applicable to the mandate of the Central Authority Co-operation Committee.

D. Possible activities

17. The Central Authority Co-operation Committee would assist the Permanent Bureau by producing, for consideration by the Special Commission convened under Article 46 of the Convention, a report on the activities of the Central Authority Co-operation Committee, including recommendations where appropriate.

18. The Committee would also assist Central Authorities implementing the Convention in three ways, first with understanding Convention language with respect to administrative co-operation, second by removing obstacles to the effective operation of the Convention (for example, reducing complaints under the Convention by identifying issues and taking steps to remove barriers and improve performance), and third, by promoting and facilitating training dissemination of good practices. In this case, the term “training” includes familiarizing interested parties with the details of the Convention and its underlying principles, as well as identifying and sharing good practices. (For example, a “twinning” arrangement could arise if a developing Central Authority seeks assistance from a developed Central Authority to provide advice, model procedures, training and possibly an exchange of personnel for practical training and experience.)

19. The committee would advise and assist the Permanent Bureau in relation to statistical data collection, analysis and reporting, and in the establishment and operation of a case law database.

¹ Prel. Doc. No 15 of March 2005, *op. cit.* note 9, pp. 53-54, prepared for the attention of the Special Commission of April 2005.

ANNEX C

**EXTRACT OF THE OCTOBER 2007 REPORT
OF THE MONITORING AND REVIEW OF THE OPERATION
AND IMPLEMENTATION OF THE CONVENTION SUB-COMMITTEE**

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The Development of a Central Authority Co-operation Committee under the Future Convention

21. After the Diplomatic Session, it is recommended that the ACWG continue the valuable work it has been engaged in to this point. Participating States have found it to be a useful and productive experience, as well as a desirable aspect of post-Convention work. Specifically the ACWG would offer a forum for continuing discussion of issues of administrative co-operation as States begin to implement the Convention and would provide advice to the Permanent Bureau in relation to the development of Guides to Good Practice under the Convention. This interim arrangement would be with a view to considering in a subsequent Special Commission the establishment of a standing Central Authority Co-operation Committee.

22. The Special Commission would direct the Committee's activities. The Committee would not be a decision-making body; it would serve an advisory role as directed by the Special Commission once the Convention is in effect.

23. The objectives of such a Committee could be to provide an informal forum for the promotion of communication, co-operation and networking among Central Authorities; and to assist the Permanent Bureau of the Hague Conference on Private International Law, and the Central Authorities both in post-Convention monitoring and review activities and in providing implementation assistance.

24. The Central Authority Co-operation Committee would be informal and flexible.

25. Primary members might be Central Authorities of States that have joined or are considering joining the Convention. It was suggested that within this Committee, there could also be regional sub-committees. For example, Regions which have a common language or problems could develop their own Sub-Committees, from which representatives (who speak English / French) could participate in meetings or conference calls of the International Committee. This would at least partially address the problem of how to deal with language issues in the Committee.

26. The Special Commission would determine the functions of the group, which could include the following:

- A. Assist Central Authorities with implementation and operation of the Convention, including by
 - a) Providing an informal forum to discuss obstacles to the effective operation of the Convention and propose solutions, for example, reducing complaints under the Convention by identifying issues and taking steps to remove barriers and improve performance;
 - b) Providing an informal forum to discuss effective practices and procedures and promoting their use within and between authorities; and
 - c) Promoting and facilitating training for all bodies or persons involved in the international recovery of maintenance.

(Note: "training" includes familiarizing interested parties with the details of the Convention and its underlying principles, as well as identifying and sharing good practices. For example, a "twinning" arrangement could arise if a developing Central Authority seeks assistance from a developed Central Authority to provide advice, model procedures,

training and possibly an exchange of personnel for practical training and experience.)

- B. Assist the Permanent Bureau of the Hague Conference by
- a) Providing feedback and making observations on the practical operation of the Convention;
 - b) Providing assistance and input for the drafting of Guides to Good Practice;
 - c) Producing, for consideration by the Special Commission, a (draft) report on the activities of the Central Authority Co-operation Committee, including recommendations where appropriate; and
 - d) Supporting efforts for statistical data collection, analysis and reporting, the establishment and operation of a case law database, and the establishment and operation of a case management database.

27. The structure of the Central Authority Co-operation Committee could involve establishing, as needed, sub-committees to better address specific topics that are applicable to the mandate of the Central Authority Co-operation Committee. For example, Sub-committees may be needed to focus on different topics such as Training, Good Practice Guides, Problem-Solving and Communications.