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RAPPORT SUR LE CENTRE INTERNATIONAL D'ÉTUDES JUDICIAIRES ET D'ASSISTANCE TECHNIQUE DE LA CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ

établi par le Bureau Permanent

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NOTE ON THE INTERNATIONAL CENTRE FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

drawn up by the Permanent Bureau

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NOTE ON THE INTERNATIONAL CENTRE FOR JUDICIAL STUDIES AND TECHNICAL ASSISTANCE OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

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1. Introduction

1. The **International Centre for Judicial Studies and Technical Assistance ("Centre")** was established in 2007 by the Hague Conference on Private International Law as an integral part of the Permanent Bureau to promote and support the delivery of assistance and training on the Hague Conventions to government officials, judges, practitioners and other members of the legal community around the world.

2. As the cross-border movement of people and transactions has increased, so has the need for the legal and administrative frameworks established by the Hague Conventions. With an increasing number of States becoming Party to the Conventions, the need for implementation assistance also increases. For the past decade the Hague Conference has been providing implementation assistance *inter alia* through diagnostic visits, tailor-made advice and consultation, and judicial seminars. These developments have been viewed as very successful and have been generously funded by Member States of the Hague Conference on Private International Law through voluntary contributions to the Supplementary Budget.[1]

3. The Council on General Affairs and Policy has repeatedly welcomed the activities undertaken by the Permanent Bureau in the areas of education, training and technical assistance in relation to the Hague Conventions (post-Convention services), and in particular the development of the International Centre for Judicial Studies and Technical Assistance, made possible by funding through the Supplementary Budget.[2] The Centre seeks to develop a more systematic approach to the provision of assistance and training, and to facilitate the proper implementation and operation of the Hague Conventions while consolidating resources and experience to build capacity to meet the increasing demand for its services.

2. Activities of the Centre in Financial Year 2009-10

2.1 Convention-specific programmes

4. In 2009, the Centre consolidated its activities into three major themes which reflect the three major work areas of the Hague Conference, and into four regions which reflect the origins of the requests for assistance received by the Centre (see diagram below). The purpose of aligning these themes is to highlight the common outcomes of proper implementation and operation of certain Hague Conventions. This structure also aims to facilitate better development of projects and to assist reporting on clear objectives and outcomes. It also highlights the benefits of activities to potential donors who may have a specific interest in supporting the achievement of outcomes and objectives in a particular field and / or region, as well as appealing to external partners who can identify specific programmes within the Centre with which there are synergies.

5. The 2009 Annual Report of the Hague Conference details the general objectives in providing technical assistance and developing training activities for each of these programme areas and regions.[3] During Financial Year 2009-10, officials from the States listed below participated in activities delivered under each of the Centre's programme areas.

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[1] Since 1999 more than 2.5 million Euros have been contributed to the Supplementary Budget of the Hague Conference, primarily through voluntary contributions by Member States.

[2] See the Conclusions and Recommendations adopted by the Council on General Affairs and Policy of the Conference in 2007, 2008 and 2009, available on the website of the Hague Conference at < www.hcch.net >, under "Work in Progress" then "General Affairs".

[3] See 2009 Annual Report, pp. 56-73.

Hague Conference International Centre for Judicial Studies and Technical Assistance

Child Protection Assistance Programme (CPAP)	**Legal Co-operation and Litigation Assistance Programme (LCAP)**	**Commercial and Finance Law Assistance Programme (ComAP)**
Intercountry Adoption Technical Assistance Programme (ICATAP) *1993 Intercountry Adoption Convention* Child Abduction and Child Protection Conventions Assistance Programme (CPCAP) *1980 Child Abduction Convention* *1996 Child Protection Convention* *2007 Child Support Convention (and Protocol)*	*1961 Apostille Convention* *1965 Service Convention* *1970 Evidence Convention* *1980 Access to Justice Convention* *2005 Choice of Court Convention*	*2006 Securities Convention*

During **2009-10**, activities were delivered involving officials from the following States:

Asia: Cambodia, Nepal. **Latin America:** Argentina, Brazil, Chile, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela **Africa:** Angola, Botswana, Ghana, Kenya, Madagascar, Malawi, Mauritius, Namibia, Nigeria, Republic of South Africa, Swaziland, Uganda, Zambia, Zimbabwe **Commonwealth of Independent States/Eastern Europe (CIS/EE):** Ukraine	**Latin America:** Dominican Republic, El Salvador, Nicaragua **Africa:** Nigeria **CIS/EE:** Georgia, Ukraine	**Africa:** Mauritius **CIS/EE:** Georgia

2.1.1 CPAP (Child Protection Assistance Programme) including ICATAP and CPCAP

6. CPAP provides technical assistance and develops training programmes focused on the Hague Children's Conventions. The Conventions provide a practical framework for the realisation of the rights of children and their families – including their primary caregivers, which in most cases are women. By effectively implementing the Hague Children's Conventions and by complying with their obligations, States give effect to many rights contained in the *United Nations Convention of 20 November 1989 on the Rights of the Child.*

7. CPAP incorporates the highly successful **Intercountry Adoption Technical Assistance Programme (ICATAP),** which provides assistance to certain States prior to, or on joining, the 1993 Intercountry Adoption Convention. For the past two years, ICATAP has produced positive results in a number of developing countries (in particular, Guatemala and Cambodia). ICATAP aims to protect vulnerable children at risk of exploitation from intercountry adoption by strengthening domestic legal and administrative systems to improve the operation of the 1993 Intercountry Adoption Convention.

8. The 1980 Child Abduction Convention and the 1996 Child Protection Convention depend heavily on a judiciary having a full understanding of the operation of the Conventions as well as Central Authorities with the capacity to co-operate with one another to secure the prompt return of children. The Child Abduction and Child Protection Conventions Assistance Programme (CPCAP) delivers activities to provide this assistance in partnerships with governments, the judiciary and other international organisations.

2.1.2 Legal Co-operation and Litigation Assistance Programme (LCAP)

9. LCAP provides technical assistance and develops training programmes focused on five Hague Legal Co-operation and Litigation Conventions. These Conventions are aimed at removing obstacles to cross-border litigation and reducing risk of fraud and abuse of legal process. The framework of the Hague Legal Co-operation and Litigation Conventions provides increased legal security and certainty resulting in benefits such as creating a legal environment which is conducive to foreign investment and trade, and enables individuals and commercial entities to better engage in cross-border transactions.

10. LCAP seeks to improve the consistent operation and implementation of these Conventions and may include diagnostic missions to explore local situations and identify specific needs for technical assistance; providing advice on the practical application of the Conventions in terms of legislative, structural and organisational issues; and developing training programmes for judicial and government officials responsible for implementing the Conventions.

2.1.3 Commercial and Finance Law Assistance Programme (ComAP)

11. Under this programme, technical assistance has been provided in respect of the 2006 Securities Convention. Overcoming legal uncertainty through these mechanisms can improve and strengthen domestic legal and financial systems to encourage foreign investment and trade. Requests for assistance in this area are slowly increasing.

2.2 Regional programmes

12. A number of the activities detailed in the 2009 Annual Report and involving officials from the States listed in the chart above were conducted on a regional basis. Activities on a regional level improve operation of the Hague Conventions by developing good practices and consistent interpretation across the region. They also foster closer networking and co-operation among States with special cultural and linguistic ties, and allow consideration to be given to ways of assessing the impact of the Conventions on the particular legal environments shared by States in a region. The following activities were undertaken:

Central America	"*La protección transfronteriza de los niños: el derecho del niño a una familia a través de la preservación familiar, la adopción nacional e internacional*" (The cross-border protection of children: the right of a child to a family through family preservation and national and intercountry adoption). The Seminar, held in Guatemala in September 2009, identified common issues in cross-border protection of children in the region. Organised in collaboration with UNICEF and the Swedish International Cooperation Agency.

Latin America	Joint Hague Conference / IIN Workshop held in Montevideo, Uruguay, in December 2009. The workshop focused on international child protection and direct judicial communications, in particular the role of the International Hague Network of Judges.
South Africa	Seminar on cross-border child protection in the Southern and Eastern African region in February 2010. The Seminar, which was attended by 50 officials from the region, highlighted the role of the Hague Conventions in protecting children in cross-border situations in the region.

3. Centre operations

3.1 Organisational aspects

13. In July 2009, Ms Frederike Stikkelbroeck was appointed Director of the International Centre for Judicial Studies and Technical Assistance. Having fulfilled - and continuing to fulfil - the role of Attaché to the Secretary General of the Hague Conference for almost four years, Ms Stikkelbroeck has an extensive understanding of the work programme of the Hague Conference and, in particular, its technical assistance activities. Since August 2009, Ms Joanna Weller, an experienced Legal Officer, has contributed significantly to the work of the Centre. Ms Micah Thorner will take up her position as Legal Programme Officer in March 2010, a position that is fully dedicated to the work of the Centre.[4] The Director is assisted by an Advisory Group consisting of three members of the Permanent Bureau. Projects undertaken under the auspices of the Centre are identified, organised and executed in close co-operation with the other members of the Permanent Bureau who have primary responsibility for the relevant fields of work.

14. The Permanent Bureau is currently considering a Business Plan for the Centre outlining a three-year programme. This will form the basis for consultations with Member States and their development aid agencies.

15. The 2009 Annual Report details a number of tailor-made activities which were delivered by the Centre in response to requests for assistance by States.

3.2 Financial situation

16. The establishment of the Centre was made possible by an initial grant from the Government of the Netherlands for the first phase, in Financial Year 2007-08. In Financial Year 2008-09, the Government of the Netherlands generously committed a further 500,000 Euros over four years (2008-2012), which has provided assistance for specific projects and with the subsequent support of a number of States including Australia, Austria, Belgium, Canada, France, Germany, Ireland, Norway, Switzerland and United States of America. Partnerships to support activities have also been developed with various organisations including UNICEF, the Hague Forum for Judicial Expertise (HFJE), the *Organisation internationale de la Francophonie* (OIF), the French Institute of the Netherlands, the *Deutsche Stiftung für Internationale Rechtliche Zusammenarbeit* (IRZ), the European Centre for Executive Development (CEDEP) and the Ukrainian-European Policy and Legal Advice Centre (UEPLAC).

[4] The Legal Programme Officer position is the continuation of the former Senior Legal Officer position under the Regular Budget.

17. For its operations, the Centre essentially depends on voluntary contributions administered through the Supplementary Budget. Since its inception, the Centre has been able to find funding and support to deliver programmes through contributions from Member States or organisations. However, fundraising to keep up with increasing demands is becoming increasingly crucial.

18. The growing volume of work produced by the number of requests for assistance, particularly in respect of ICATAP, has created a need for additional resources to ensure that work can continue. This work is currently heavily reliant on the availability of the staff of the Permanent Bureau.[5] The timeframe for an intensive technical assistance programme can vary depending on needs from one mission to several consultancies over a period of three to four years. The work associated with identifying needs, developing and managing contracts and programmes is highly demanding, and therefore continuity of staffing is needed to maximise results.

19. To ensure the sustainability of the work of the Centre, to raise its profile and to enable the Centre to continue to formulate a robust multi-annual work plan in response to the flow of incoming government requests, the need for new sources of financial support is imperative. To identify opportunities for funding, the Centre has commenced a consultative process with a number of Member States to make direct contact with national development aid agencies.

20. The Centre seeks to concentrate its efforts in the coming year on building relationships with development aid agencies in order to highlight how the assistance provided contributes to creating an international legal framework which protects the fundamental human rights of children and families, secures greater legal certainty in cross-border legal matters while fostering trade and investment. In most cases where technical assistance is provided, the States receiving assistance have been identified by the Development Assistance Committee of the Organization for Economic Co-operation and Development as Official Development Assistance (ODA) Recipients.

21. During 2010, further efforts will be invested by the Centre in building on the strengths of partnerships and the results of projects to attract funding with a view to ensuring the Centre's sustainability. As mentioned above, a three-year financial plan forms a part of the Business Plan currently under consideration by the Permanent Bureau. The current, immediate needs of the Centre are detailed in Part II of the Supplementary Budget for Financial Year 2010-2011 (Prel. Doc. No 9B).

[5] It should be noted that the Permanent Bureau, in addition to its participation in the work of the Centre, provides advice to many States on issues relating to the Hague Conventions.