

## **Conclusions and Recommendations**

### ***Conference on International Litigation in the Asia Pacific Region***

#### **Wuhan, People's Republic of China – 23-24 September 2013**

The Conference on International Litigation in the Asia Pacific Region was held on Monday, 23 and Tuesday, 24 September 2013 in Wuhan, People's Republic of China. The Conference was organised by the Hague Conference on Private International Law (HCCH), with the support of its Asia Pacific Regional Office, the Government of the People's Republic of China and Wuhan University.

The Conference was attended by over 40 participants from Australia, Cambodia, China, India, Indonesia, Republic of Korea, Lao People's Democratic Republic, Myanmar, New Zealand, Singapore, Sri Lanka, Thailand, and Vietnam.<sup>1</sup> The participants were government officials, judges, academics and invited experts.

#### **A. *The Choice of Court Convention***

1. The Conference considered that the *Hague Convention of 30 June 2005 on Choice of Court Agreements* (the Choice of Court Convention) is a global instrument establishing clear rules on international jurisdiction and recognition and enforcement of foreign judgments in disputes arising out of international cases in civil and commercial matters involving an exclusive choice of court agreement.

2. The Conference considered that the Convention provides litigants with a simple, predictable and effective legal framework in such cases, which will greatly benefit the international business community and foster international trade and investment.

3. The Conference acknowledged that the Convention reduces the risk of time-consuming and costly proceedings in such cases whether in the chosen court or a court of another Contracting State.

4. The Conference considered that, for litigants in Contracting States, the Convention will significantly lower the cost of:

- a. litigating such disputes; and
- b. enforcing the resulting judgments given by a court in one Contracting State, in other Contracting States.

5. The Conference noted that the Convention is the litigation equivalent of the widely ratified *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958*. The Conference observed that the coming into force of the Convention could better align litigation with arbitration as a means of commercial dispute resolution. The Convention thus has the potential to secure for international commercial litigation what the *New York Convention* has done for international arbitration. The Convention will therefore allow parties to choose the most appropriate dispute resolution option suited to their specific needs.

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<sup>1</sup> Due to extreme weather conditions in the region, certain participants were unable to attend the Conference including the delegation from the Philippines and the representative from Macau SAR (Chinese delegation).

6. Through both general discussion and a series of case studies the Conference examined how the Convention, if adopted, would be likely to operate to contribute to the above-mentioned objectives.

### **B. *The implementation of the Choice of Court Convention***

7. The Conference drew attention to the accession of Mexico to the Choice of Court Convention, and its signature by the European Union and the United States of America as well as the fact that the European Union intends to ratify the Convention in 2014. It was also noted that other States, including Australia and New Zealand, are actively considering the Convention.

8. The Conference acknowledged the efforts of the Permanent Bureau to facilitate the implementation of the Choice of Court Convention. In particular, the Conference recognised the benefits of the implementation dialogue, the implementation checklist and promotional events and other conferences during which participants are able to exchange views and ideas on the implementation of the Convention.

### **C. *The Judgments Project***

9. The Conference exchanged information on the recognition and enforcement of judgments and jurisdictional rules in their respective States. Based on the responses to the Questionnaire and the contributions made during the round table discussion, the Conference acknowledged that currently the rules differ significantly among States. The Conference discussed the regional and worldwide benefits of the harmonisation of these rules for parties engaged in cross-border trade and investment.

10. The work carried out by the Hague Conference in the area of international jurisdiction and the recognition and enforcement of foreign judgments (the Judgments Project) was presented, including a summary on the current status and the path forward suggested by the Permanent Bureau in the August 2013 Process Paper.<sup>2</sup>

11. The Conference concluded that the Judgments Project offers the potential for greater predictability and legal certainty in international litigation by reducing the time, cost and complexity of international litigation.

12. The Conference was informed of the merits of the Judgments Project and expressed strong support for its continuation.

13. The Conference encouraged the States participating in the Judgments Project to resume their meetings, taking into account the path forward suggested by the Permanent Bureau in the August 2013 Process Paper.

### **D. *Asia Pacific Regional Office***

14. The Conference acknowledged the importance of the HCCH's Asia Pacific Regional Office in providing for regional engagement in the work of the HCCH.

### **E. *Next Steps***

15. In light of the utility and practical functionality of the Choice of Court Convention for States in the Asia Pacific Region, it was suggested that the Convention be put forward for consideration by competent authorities.

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<sup>2</sup> See the Judgments Project webpage on the HCCH website at [http://www.hcch.net/index\\_en.php?act=text.display&tid=149](http://www.hcch.net/index_en.php?act=text.display&tid=149).

16. The Conference discussed the benefits of additional activities that would assist States in the region in considering joining the Choice of Court Convention such as impact assessment reports of the Convention.

17. The Conference discussed the possibility of creating an Asia Pacific network of experts to raise awareness and promote the work of the HCCH.

#### ***F. Acknowledgments***

18. The participants expressed their appreciation to the Government of the People's Republic of China, the Permanent Bureau of the HCCH, along with its Asia Pacific Regional Office, and Wuhan University for hosting, organising and conducting the Conference.

19. The participants also thanked the speakers, in particular the keynote speaker, the Solicitor General of the Commonwealth of Australia, for their excellent presentations, as well as all the government and judicial authorities and academic experts for participating in the Conference.

20. Finally, the participants thanked all those that contributed financially to the event, notably the Government of the Netherlands, Wuhan University and law firm Lipman Karas.