

**PROJET DE PLAN D'AFFAIRES POUR LE DÉVELOPPEMENT D'iSUPPORT**

**LE SYSTÈME ÉLECTRONIQUE DE GESTION DE DOSSIERS ET DE COMMUNICATIONS POUR LA  
CONVENTION DE LA HAYE DU 23 NOVEMBRE 2007 SUR LE RECOUVREMENT INTERNATIONAL  
DES ALIMENTS DESTINÉS AUX ENFANTS ET À D'AUTRES MEMBRES DE LA FAMILLE ET  
LE PROTOCOLE DE LA HAYE DU 23 NOVEMBRE 2007 SUR LA LOI APPLICABLE  
AUX OBLIGATIONS ALIMENTAIRES**

*préparé par le Bureau Permanent*

\* \* \*

**DRAFT BUSINESS PLAN FOR THE DEVELOPMENT OF iSUPPORT**

**THE ELECTRONIC CASE MANAGEMENT AND COMMUNICATION SYSTEM FOR THE  
HAGUE CONVENTION OF 23 NOVEMBER 2007 ON THE INTERNATIONAL RECOVERY OF  
CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE AND THE  
HAGUE PROTOCOL OF 23 NOVEMBER 2007 ON THE LAW APPLICABLE TO  
MAINTENANCE OBLIGATIONS**

*drawn up by the Permanent Bureau*

*Document préliminaire No 5 de septembre 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 5 of September 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*

**PROJET DE PLAN D'AFFAIRES POUR LE DÉVELOPPEMENT D'iSUPPORT**

**LE SYSTÈME ÉLECTRONIQUE DE GESTION DE DOSSIERS ET DE COMMUNICATIONS POUR LA  
CONVENTION DE LA HAYE DU 23 NOVEMBRE 2007 SUR LE RECOUVREMENT INTERNATIONAL  
DES ALIMENTS DESTINÉS AUX ENFANTS ET À D'AUTRES MEMBRES DE LA FAMILLE ET  
LE PROTOCOLE DE LA HAYE DU 23 NOVEMBRE 2007 SUR LA LOI APPLICABLE  
AUX OBLIGATIONS ALIMENTAIRES**

*préparé par le Bureau Permanent*

\* \* \*

**DRAFT BUSINESS PLAN FOR THE DEVELOPMENT OF iSUPPORT**

**THE ELECTRONIC CASE MANAGEMENT AND COMMUNICATION SYSTEM FOR THE  
HAGUE CONVENTION OF 23 NOVEMBER 2007 ON THE INTERNATIONAL RECOVERY OF  
CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE AND THE  
HAGUE PROTOCOL OF 23 NOVEMBER 2007 ON THE LAW APPLICABLE  
TO MAINTENANCE OBLIGATIONS**

*drawn up by the Permanent Bureau*

## TABLE OF CONTENTS

<b>Executive summary</b> .....	<b>5</b>
<b>Background information</b> .....	<b>7</b>
The Hague Conference on Private International Law.....	7
The <i>Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance</i> and the <i>Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations</i> .....	9
<b>The objective – The use of information technology for the international recovery of child support and other forms of family maintenance</b> .....	<b>10</b>
The call for the use of information technology solutions.....	10
Development of legal texts that accommodate the use of information technology solutions .....	10
The use of mandatory and recommended forms to standardise communications and alleviate language barriers .....	11
<b>The desired outcome – The development of a common multilingual international electronic case management and communication system</b> .....	<b>12</b>
General description of iSupport .....	12
Functional requirements .....	13
Technical requirements.....	13
Main features of the iSupport system.....	13
<b>Considerations with regard to the development of iSupport</b> .....	<b>14</b>
Potential number of cases to be covered by the system.....	14
Timing issues .....	14
Most important characteristics of the potential vendor or group of vendors.....	15
Models already in place.....	15
Development process to be all inclusive and co-ordinated by the Secretariat of the Hague Conference.....	15
Development in different phases .....	16
Financial issues (facilitation by the Secretariat of the Hague Conference) .....	16
Financial issues (production) .....	16
Financial issues (post-production – pilot project, deployment, maintenance) .....	17
<b>Action plan</b> .....	<b>17</b>
<b>Ongoing actions</b> .....	<b>17</b>
Taking stock of existing models .....	17
Seeking the support of interested Members of the Organisation.....	17
<b>Actions already completed</b> .....	<b>17</b>
Setting the proper legal environment .....	17
Taking stock of existing models .....	17
Functional requirements of iSupport .....	17
Designing iSupport.....	17
<b>Actions to be undertaken</b> .....	<b>18</b>
Seeking the support of interested Members of the Organisation.....	18
Finalising the functional and technical requirements of iSupport for Phase I.....	18
Developing and finalising the functional and technical requirements of iSupport for Phase II .....	18
Designing iSupport.....	18
Deciding on a business model.....	18

Identifying, approaching and selecting potential vendors .....	18
Developing iSupport .....	19
Piloting and deploying iSupport .....	19
<b>Required resources.....</b>	<b>19</b>
<b>Annex A – Vision, Mission, Strengths and Values.....</b>	<b>i</b>
<b>Annex B – Additional information on the development of a medium- and technology-neutral text .....</b>	<b>iii</b>
<b>Annex C – Summary description of a mock-up iSupport system .....</b>	<b>vi</b>
<b>Annex D – Australian contract – Arrangement proposal .....</b>	<b>xii</b>
<b>Annex E – Agreement between the General Directorate of Legal and Legislative Affairs of the Department of Justice of Quebec and the Hague Conference on Private International Law regarding the secondment of Me. Patrick Gingras.....</b>	<b>xv</b>

## **Executive summary**

1. The new *Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* with its *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations* has the potential to benefit hundreds of thousands if not millions of persons,<sup>1</sup> children and adults, in many States around the world, and to contribute to the reduction of welfare / social security dependency.

2. Swift, efficient, accessible, cost-effective, result-oriented and simple international recovery of child support and other forms of family maintenance calls for the application of information technology solutions. The text of the Convention provides that “the States signatory to [...] the Convention [...] [seek] to take advantage of advances in technologies and to create a flexible system which can continue to evolve as needs change and further advances in technology create new opportunities”.

3. Further to the development and adoption of the new Convention and Protocol, the Permanent Bureau (the General Secretariat) of the Hague Conference on Private International Law is now seeking the support and assistance of interested Members and of its Member Organisation,<sup>2</sup> as part of its Supplementary Budget process, to facilitate the further development of an electronic case management and Internet-based communication system (hereinafter the “iSupport” system) in support of this new international treaty framework. The collaboration of service providers (information technology vendors and banks) with an interest in the development and implementation of such systems, and possibly their operation and maintenance, is also called upon.

4. As the new Convention and Protocol build bridges at the international level between the different domestic legal systems for the recovery of child support and other forms of family maintenance, the iSupport system will provide an electronic bridge / platform between interested States to communicate, process data and transfer payments under these international instruments. This co-operation could be made possible by the electronic migration of the required Convention and Protocol data from the domestic case management systems, where they exist, to the international system and vice-versa. The iSupport system will also provide the beginning of an electronic solution to those States and Organisations that have not yet embraced e-government practices in this area. It may also inspire them to develop domestic systems in the future.<sup>3</sup> It is the intention of the Permanent Bureau to facilitate the development of the iSupport system in an inclusive manner, with all interested States and Organisations, as it did for the development of the new Convention and Protocol, in accordance with its general working methods.

---

<sup>1</sup> Statistics show that in countries such as Australia, Canada, New Zealand and the United States of America, there is on average one (1) international child support case per 1,000 habitants. It is also important to note that the number of legal separations and divorces continues to increase in many countries. Based on a rough extrapolation of statistics from the 1980 Child Abduction Convention and the previously mentioned statistics, it appears that there are between 500 and 1,000 international child support cases per international child abduction case.

<sup>2</sup> The European Community.

<sup>3</sup> As regional norms on the same subject matter, such as the recently adopted Council Regulation (EC) No 4/2009 of 18 December 2008 on Jurisdiction, Applicable Law, Recognition and Enforcement of Decisions and Co-operation in Matters relating to Maintenance Obligations, and domestic norms such as the Uniform Interstate Family Support Act (United States of America) and the Inter-jurisdictional Support Orders Act (Canadian provinces and territories) track the same data, a similar system, with small adjustments, could be used for the recovery of maintenance obligations within the European Union, the United States of America or Canada.

5. The iSupport system would contribute to the effective implementation of the Convention, and lead to greater consistency in practice in the different States since it would follow the language of the Convention. The system would also help significantly to improve communications between Central Authorities and could alleviate translation problems as it could operate in different languages. Such a system could contribute to the daily operations of the Central Authorities set up under the Convention and help considerably to improve standards of case management by promoting paperless processing. The system could also generate the required statistics as part of the means of monitoring operation of the Convention. In addition to the management and monitoring of cases, the system could provide instructions to banks with regard to electronic transfers of funds and could send and receive secured online communications and applications under the Convention.

6. The Permanent Bureau of the Hague Conference, which holds the institutional memory regarding the development of the Convention and Protocol and has a co-ordinating role in ensuring the proper implementation and operation of these instruments, would facilitate the development of iSupport with the assistance of working groups of States experts and an advisory group of industry professionals, and through decisions made by interested States. The Secretariat will co-ordinate the input of States interested in the development of the system at each stage of the development process, from the establishment of the functional and technical requirements of the system to its deployment, including the organisation of a possible call for tender. iSupport will be developed in close co-operation with interested Members of the Organisation. The development of the iSupport system has been and will continue to be a process in phases taking into account the wishes of interested States. It will be based mainly on functional requirements already adopted by States, such as those provided by the texts of the Convention and Protocol, or soon to be approved functional requirements such as the recommended forms and Country Profile, endorsed by the Diplomatic Session on 23 November 2007 and which in turn should be adopted by the November 2009 Special Commission on the implementation of the new instruments. Finally, the Practical Handbook for Caseworkers on the practical operation of the Convention, which has been prepared with a view to its adoption by the November 2009 Special Commission, will also provide important functional requirements on the processing of applications. As no statistical requirements have been decided upon yet, a statistical module will likely be developed at a later stage.

7. Phase I should at a minimum include the development of the case management and Internet-based communication systems. Phase II will be aimed at the development of an electronic fund transfer module. Phase III could deal with statistical reporting and performance measurements. Phase IV could focus on linking the electronic version of the Country Profile with the electronic case management system in order to automatically generate functional requirements specific to States. But it is not recommended to proceed with such a phase until more tests can be conducted on the Country Profile. Consideration should be given to the combination of Phase I and Phase II. However, it appears that there may be enough benefits to implementing Phase I alone, since no international Internet-based communication system for child support is currently available and electronic transfers of funds between States are only taking place on an experimental basis. Phase I would bring immediate results to individual citizens, with applications under the Convention being dealt with faster, and to States, in the form of cost reductions and gains in efficiency.

8. In the coming years, starting in 2010 until 2012, the Hague Conference will need, in addition to its Regular Budget, assistance in kind or by way of financial contributions for a total of about 1,425,000 Euros<sup>4</sup> in order to facilitate the development of Phases I and II of the iSupport system.<sup>5</sup>

9. As for the actual costs of production *per se* of the system by a vendor or a group of vendors, these could be covered in different ways depending on the wishes of interested States. In the best of all scenarios, it could be the subject of donations by Members of the Organisation, interested vendors or a group of vendors, or a combination of both as happened with the iChild case management system produced in co-operation with WorldReach Canada and the Government of Canada for the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*. Another possibility would be to treat the production costs as an investment, either by interested Members of the Organisation or vendors, or a combination of the two, to be recovered, over a period of about five years, through, for example, a licence fee or a user fee per active file processed by the system.

10. The costs for a pilot project and deployment (including hardware, implementation (cross-mapping of international and domestic databases where necessary), translation of software into languages other than English, French and Spanish, and customised features) would be borne by interested States.

11. Maintenance and upgrade costs could be recovered by user fees or interest on the payment transfers, or a combination of the two, if interested States so wish.

12. This Business Plan, which deals only with Phases I and II of the development of iSupport, is a dynamic document that will be adjusted over time in light of the different consultations on the different business models available that will be undertaken with interested States, and the decisions the latter may make in relation thereto.

## **Background information**

### The Hague Conference on Private International Law

13. The Hague Conference on Private International Law is a global intergovernmental organisation that works for the progressive unification of the rules of private international law. With 68 Member States and one Member Organisation<sup>6</sup> representing all continents and more than 125 States Parties to at least one of the 38 Hague Conventions, the Hague Conference is a melting pot of legal traditions. The activities of the Conference are co-ordinated by a multinational Secretariat – the Permanent Bureau – located in The Hague, whose official working languages are English and French.<sup>7</sup> The Conference develops and services multilateral legal instruments, which respond to global needs.<sup>8</sup>

---

<sup>4</sup> This amount includes office space rental, overhead costs and some employee benefits such as pension contributions. See the detailed figures under para. 45.

<sup>5</sup> If the total amount received were to exceed this request the excess would be used for future development phases of the project.

<sup>6</sup> The European Community.

<sup>7</sup> Most of the work of the Hague Conference is now carried out in Spanish thanks to Supplementary Budget contributions made by the Governments of Spain and the United States of America.

<sup>8</sup> See the Mission, Vision, Strengths and Values statement set out in Annex A.

14. Personal and family or commercial situations involving more than one country are commonplace in the modern world, and may be affected by differences between the legal systems in those countries. With a view to resolving these differences, States have adopted special rules known as “private international law” rules. The statutory mission of the Conference is to work for the “progressive unification” of these rules. This involves finding internationally-agreed approaches to issues such as jurisdiction of the courts, applicable law, and the recognition and enforcement of decisions in a wide range of areas of private law. Over the years, the Conference has, in carrying out its mission, increasingly become a centre for international judicial and administrative co-operation in the area of private law, especially in the fields of protection of the family and children, of civil procedure and commercial law.

15. To this end, the Permanent Bureau prepares Plenary Sessions and Special Commission meetings and carries out the basic research required for any subject taken up by the Conference. The Permanent Bureau facilitates the negotiation and drafting of multilateral treaties in fields such as international judicial and administrative co-operation; the international protection of children (*e.g.*, international child abduction, intercountry adoption, child support); jurisdiction, recognition and enforcement of foreign judgments, etc.<sup>9</sup> In addition, the Permanent Bureau engages in various activities to support the effective implementation and operation of the Conventions.<sup>10</sup>

16. Over the years, the Hague Conference has developed a unique system of post-Convention services to monitor the operation of the Hague Conventions, to assist Contracting States with their effective implementation and to promote consistency and the adoption of good practices in the daily operation of the Conventions. These services include, *inter alia*, maintaining an international network of Central Authorities and other bodies charged with implementing the Conventions; providing technical assistance to countries on matters of implementation; and, encouraging consistent practices and uniform interpretation of the Conventions through promotion of electronic case law, statistical and case management databases and electronic communication systems.<sup>11</sup>

---

<sup>9</sup> This core work of the Organisation is covered by its Regular Budget.

<sup>10</sup> A majority of this work is covered by the Supplementary Budget of the Organisation to which Members of the Organisation make voluntary contributions.

<sup>11</sup> See, Permanent Bureau, “Present and Future Developments of Information Technology Systems in Support of Hague Conventions”, Prel. Doc. No 3 of February 2006 for the attention of the Special Commission of April 2006 on General Affairs and Policy of the Conference, available on the Hague Conference website (< [www.hcch.net](http://www.hcch.net) >) under “Work in Progress” then “General Affairs”. At that meeting, “The Special Commission welcomed the ongoing efforts of the Permanent Bureau in relation to the use and the development of information technology systems in support of existing and draft Hague Conventions in the areas of legal co-operation and family law. Member States were encouraged to collaborate actively with the Permanent Bureau in the development and maintenance of these systems and to explore possible sources of funding including through the supplementary budget, partnership funding or material assistance.” See Conclusions adopted by the Special Commission of April 2006, Prel. Doc. No 11 of June 2006, available on the Hague Conference website, *ibid*.



The Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance and the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations

17. On 23 November 2007, after more than four years of negotiations, more than 70 States,<sup>12</sup> as well as the European Community,<sup>13</sup> successfully concluded in The Hague the new *Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*,<sup>14</sup> as well as its *Protocol on the Law Applicable to Maintenance Obligations*.<sup>15</sup> Both instruments employ rules of private international law to build bridges at the international level between the different domestic legal systems for the recovery of maintenance.

18. The new Convention is designed to offer children and other family members a simpler, swifter and more cost-effective international system of recovery of maintenance. Hundreds of thousands of children and other family members worldwide could benefit from this new Convention. It will also contribute to the reduction of welfare / social security dependency. Statistics show that in some countries such as Australia, Canada, New Zealand and the United States of America, there is an average of one international child support case per 1,000 habitants.

19. The Convention is built on a solid system of administrative co-operation according to which the Central Authorities transmit to each other applications for establishment, recognition and enforcement, and modification of maintenance decisions. Access to child support procedures set up by the Convention is virtually free. The Convention is a flexible instrument which includes a thorough system of recognition and enforcement adapted to all national systems of recovery of maintenance, whether these systems are court based or administrative. It offers modern solutions regarding enforcement and allows public bodies to benefit from this system.

20. The new Convention is built upon the best features of existing instruments such as the *United Nations Convention of 20 June 1956 on the Recovery Abroad of Maintenance* (also known as "the New York Convention of 1956") and the *Hague Conventions of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations* and *on the Law Applicable to Maintenance Obligations*.

21. The *Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations* includes rules which will assist parties, and their professional advisors, in determining the law applicable to their maintenance arrangements and guide judges in identifying the law applicable to international litigation in respect of maintenance.

---

<sup>12</sup> The following Members of the Hague Conference have signed the Final Act: Albania, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Croatia, Czech Republic, Denmark, Ecuador, Egypt, Estonia, European Community, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Mexico, Monaco, Morocco, Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela. The following Observers (non-Member States) have also signed the Final Act: Algeria, Burkina Faso, Colombia, Costa Rica, Dominican Republic, Guatemala, Haiti, India, Indonesia, Iran, Philippines and Viet Nam. The following intergovernmental organisations attended: Commonwealth Secretariat and Mercosur. The following non-governmental organisations attended: International Society of Family Law, (ISFL) International Association of Women Judges (IAWJ), International Bar Association (IBA), Defence for Children International (DCI), National Child Support Enforcement Association (NCSEA), International Social Services (ISS), and the International Union of Latin Notaries (UINL).

<sup>13</sup> The new Convention is, in terms of the respective competences of the European Community and its Member States, a "mixed" Convention.

<sup>14</sup> The text of the Convention can be found on the HCCH website at < [www.hcch.net](http://www.hcch.net) > under "Conventions" then "No 38".

<sup>15</sup> The text of the Protocol can be found on the HCCH website, under "Conventions" then "No 39".

## **The objective – The use of information technology for the international recovery of child support and other forms of family maintenance**

### The call for the use of information technology solutions

22. The international recovery of maintenance calls for the application of information technology solutions for many reasons:

- The very large number of cases involved, which is steadily increasing;<sup>16</sup>
- Maintenance cases often have a long life-span (in some countries child support can last until the age of 25 years);
- Maintenance cases are subject to a high number of transactions, such as regular modifications (*i.e.*, variations of the needs of the creditor and of the resources of the debtor) or recurrent electronic transfers of funds for example;
- A high number of transactions are repetitive and can be standardised;
- Communications take place regardless of time zones;
- A vast amount of information about the state of the law in the different countries has to be available in real time;
- Means of communications have to overcome language barriers.

23. It is in response to this environment that the Preamble of the Convention states that “the States signatory to the [...]Convention [...] [seek] to take advantage of advances in technologies and to create a flexible system which can continue to evolve as needs change and further advances in technology create new opportunities”. Furthermore, Article 12(7) of the Convention provides that Central Authorities, charged with the operation of the co-operation system established under the Convention, shall employ the most rapid and efficient means of communication at their disposal. In that respect the Convention will require the use of website databases to provide real time information about its operation (Art. 57), will invite the use of electronic fund transfers (Art. 35) and will be geared towards the use of cross-border electronic case management and communication systems (Art. 13).

### Development of legal texts that accommodate the use of information technology solutions

24. In order to accommodate effectively the use of information technology at the global level, it was necessary to develop a text that would be medium- and technology-neutral, that is, a text that could be used either in a paper environment, an electronic environment or a combination of the two. This neutrality would also allow the text to pass the test of time as technologies will evolve. There are several reasons upon which this decision rests.

25. First, at present very few judicial or administrative authorities around the world deliver or accept electronic data. Where the information and documents could be transmitted electronically between Central Authorities, some of the information and documents in the State of origin may only exist in paper form and can only be filed in

---

<sup>16</sup> See, *supra*, note 1.

such form with the competent authority in the requested State. In this respect, Article 13 of the Convention provides that “[a]ny application made through Central Authorities of the Contracting States in accordance with this Chapter, and any document or information appended thereto or provided by a Central Authority, may not be challenged by the respondent by reason only of the medium or means of communication employed between the Central Authorities concerned”.

26. Secondly, the objective was to develop a text that could stand alone from functional equivalents found in domestic law, or the lack thereof, and the different technologies available within the different States. Worldwide, less than 30 States have enacted legislation that provides functional equivalents for concepts such as “signature”, “writing”, “original”, “sworn” and “certified”. States that have done so have either implemented the 1996 UNCITRAL Model Law on Electronic Commerce<sup>17</sup> as such or have drawn upon it. Where this has been the case, even fewer States have extended the application of their legislation beyond the context of commercial activities such as the area of family law and more specifically the field of child support and other forms of family maintenance. Furthermore, in the light of this lack of functional equivalents in domestic laws of a number of States it was clear that, where possible, other drafting techniques would have to be relied upon to find solutions.<sup>18</sup>

27. The text that has been adopted is autonomous from the solutions found in domestic law regarding information technology. The Convention uses neutral terms in relation to medium and technologies so that it can be used in either a paper or electronic environment or a combination of the two. Therefore, the Convention avoids terms such as “signature” (when what is actually required is a simple identification of the user), “writing”, “original”, “sworn” and “certified” as much as possible.<sup>19</sup> Furthermore, the text as drafted provides for the protection of personal data,<sup>20</sup> confidentiality<sup>21</sup> and non-disclosure of information,<sup>22</sup> without endangering the principles of due process. In this respect, it should be noted that some of the solutions adopted for this purpose have been drawn from the area of uncontested claims. It is important to remember that in the area of child support the establishment of paternity or the amount of maintenance are the most contested issues, not the documentary evidence *per se*.

#### The use of mandatory and recommended forms to standardise communications and alleviate language barriers

28. Since the beginning of the work on the international recovery of child support and other forms of family maintenance, the value of mandatory and recommended forms to be used primarily between Central Authorities for the transmission and receipt of applications has been emphasised again and again.<sup>23</sup> They facilitate the presentation of information and provide the opportunity to summarise and list documents for specific applications while reducing documentary requirements to a minimum. While they may not act as substitutes for certain required documents, they may reduce the need for full translations. Familiarity with mandatory and recommended forms, even when translated into different languages, facilitates the handling of applications. The forms developed for the new Maintenance Convention make use of “tick-boxes” and avoid “open-text”

<sup>17</sup> Consult < [http://www.uncitral.org/uncitral/en/uncitral\\_texts/electronic\\_commerce/1996Model.html](http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/1996Model.html) > to obtain the text of the Model Law (last consulted on 27 August 2009).

<sup>18</sup> See Annex B for additional information regarding the development of a medium- and technology-neutral text including the issue of cross-border recognition of certification authorities and the retransmission of data (*i.e.*, in-chain transmission of data).

<sup>19</sup> See *ibid.* for the specific solutions included in the text of the Convention for these specific terms.

<sup>20</sup> Art. 38 of the Convention.

<sup>21</sup> Art. 39 of the Convention.

<sup>22</sup> Art. 40 of the Convention.

<sup>23</sup> Mandatory and recommended forms are widely used under other Hague Conventions.

answers as often as possible, with the latter required for names of parties and competent authorities and their contact details. Thus, making these forms available in different languages will allow countries to overcome language barriers; it will be possible to complete a form in English and to read it in Spanish, with the exception of “open-text” answers which in most cases would not need to be translated since they will largely consist in proper names and contact details.<sup>24</sup> The mandatory and recommended forms will encourage consistent practices, regular operation and uniform interpretation of the Convention. They will assist with the swift transmission of documents and information. Finally, the use of these forms will be an essential component of a common multilingual international electronic case management, communication and electronic fund transfer system under the new Maintenance Convention.

### **The desired outcome – The development of a common multilingual international electronic case management and communication system**

#### General description of iSupport

29. The Secretariat of the Hague Conference began examining the possibility of developing a common multilingual international electronic case management<sup>25</sup> and Internet-based communication system<sup>26</sup> for the Convention – the iSupport system – during the last three years of negotiations on the text of the Convention. The system would contribute to the effective implementation of the Convention and lead to greater consistency in practice in the different States since it would follow the language of the Convention. The system would also help significantly to improve communications between Central Authorities<sup>27</sup> and could alleviate translation problems as it could operate in different languages.<sup>28</sup> Such a system could contribute to the daily operations of the Central Authorities set up under the Convention and help considerably to improve standards of case management by promoting paperless processing. The system could also generate the required statistics<sup>29</sup> as part of the means of monitoring operation of the Convention. In addition to the management and monitoring of cases, the system could provide instructions to banks with regard to electronic transfers of funds<sup>30</sup> and could send and receive secured online communications and applications<sup>31</sup> under the Convention.<sup>32</sup> Finally, the system would generate significant savings.

---

<sup>24</sup> “Open-text” answers would be completed using alphabetical characters agreed upon by the users.

<sup>25</sup> Under the system envisaged, all the information pertaining / belonging to a Central Authority would be stored on servers within that Central Authority. Information / data would not be stored with third parties.

<sup>26</sup> This would be a secured system guaranteeing integrity, irrevocability, identification / authentication, access control and confidentiality of the information communicated. For further information regarding these concepts, see the Report drawn up by Philippe Lortie, First Secretary, “Transfer of Funds and the Use of Information Technology in relation to the International Recovery of Child Support and other Forms of Family Maintenance”, Prel. Doc. No 9 of May 2004, for the attention of the Special Commission of June 2004, and annex to Prel. Doc. No 9. Both documents are available on the HCCH website at < [www.hcch.net](http://www.hcch.net) >, under “Conventions”, “No 38” then “Preliminary Documents”.

<sup>27</sup> Art. 5 of the Convention.

<sup>28</sup> Arts 44 and 45 of the Convention.

<sup>29</sup> Art. 54(2) of the Convention.

<sup>30</sup> Arts 10(1) *f*) and 35 of the Convention.

<sup>31</sup> Art. 12(7) of the Convention.

<sup>32</sup> A summary description of a mock-up of the iSupport system as well as screen shots of the most important features of the system can be found in Annex C.

### Functional requirements

30. The development of the iSupport system will be based mainly on already adopted functional requirements, such as those provided by the texts of the Convention and Protocol, or soon to be approved functional requirements such as the recommended forms and Country Profile which should be adopted by the November 2009 Special Commission on the implementation of the new instruments. Finally, the Practical Handbook for Caseworkers on the practical operation of the Convention, which has been prepared with a view to its adoption by the November 2009 Special Commission, will also provide important functional requirements on the processing of applications. Experience from States equipped with electronic case management systems<sup>33</sup> as well as the experience of the Hague Conference with the iChild case management system<sup>34</sup> will provide other useful examples of functional requirements. In accordance with industry practice, a cost-effective development of functional requirements that would meet the needs of all States would be one developed with the assistance of 20% of the States that would represent about 80% of the case load.<sup>35</sup>

31. It is suggested at this moment to develop the functional requirements of the system for both Phase I (case management and Internet-based communication systems) and Phase II (the electronic transfer of funds module). Once the benefits of both Phases are analysed it will be easier to decide between combining Phase I and Phase II or starting Phase I alone. Having functional requirements ready for both Phases will also provide clear indications to interested vendors as to what is anticipated with regard to the future development of iSupport.

### Technical requirements

32. It will be important to know the technical requirements of all interested States in order to develop a single common system that can be deployed on any globally accepted industry standard of platform or environment without the need to make costly modifications. Technical requirements will range from the types of systems on which iSupport will have to be deployed to the security protocols that will have to be followed.

### Main features of the iSupport system

33. iSupport should include at a minimum the following features:

- Secured access web-based application running on locally hosted servers with no interactions with PC-based applications for low-cost deployment;
- Individual databases for each participating State hosted locally in order to ensure appropriate protection of personal data and confidential information;
- Possible migration of relevant data between locally implemented web-based systems and iSupport in order to avoid work duplication;
- Standardised case-based record keeping system respecting filing and archiving requirements of participating States;

---

<sup>33</sup> For example, Australia, Canada, Finland, New Zealand, Norway, Sweden and the United States of America.

<sup>34</sup> The iChild case management system under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* has been developed in co-operation with WorldReach Canada and the Government of Canada. It is available free of charge to all States Parties to that Convention. It is implemented in more than 10 Central Authorities worldwide.

<sup>35</sup> This would include the States listed in note No 33 with the addition of other key States from the European Union.

- Self-contained server-to-server secured Internet-based communication system for transmission between participating States and, where applicable, territorial units, of electronic messages, notes to file and multilingual requests and applications under the Convention;
- Case management system to initiate, process, follow-up and provide status reports on outgoing and incoming applications under the Convention assisted by a task management and alert system in line with Convention requirements;
- Cross-border electronic transfer of funds which will include the transmission of disbursement information for monitoring purposes;
- Statistical and performance measurement reporting systems to assist strategic planning at both domestic and international levels;
- Single desktop platform with access to all relevant Hague Conference information such as Central Authority contact details, Country Profiles, Convention and Protocol Status Charts, Practical Handbook, User Manual and Implementation Guide;
- Multitasking provided by minimising several cases at once;
- Software available in English, French and Spanish and any other language participating States are willing to finance.

### **Considerations with regard to the development of iSupport**

#### Potential number of cases to be covered by the system

34. As reported earlier,<sup>36</sup> statistics show that in countries such as Australia, Canada, New Zealand and the United States of America, there is on average one (1) international child support case per 1,000 habitants. In addition, based on a rough extrapolation of statistics from the 1980 Child abduction Convention and the previously mentioned statistics, it appears that there are between 500 and 1,000 international child support cases per international child abduction case in these four countries. Therefore, based on the 2003 Statistical Report on the 1980 Child Abduction Convention,<sup>37</sup> there could be between 240,000 and 480,000 child support cases between Australia, Canada, New Zealand, the United Kingdom and the United States of America. Based on these statistics, there could be between 110,000 and 220,000 cases between these States and the Members of the European Union (excluding the United Kingdom). Furthermore, there could be between 200,000 and 400,000 cases between the 27 Members of the European Union. Finally, all together these 31 States could have between themselves between 550,000 and 1,100,000 child support cases. However, at this time the Convention is not in force for any State. The United States of America signed the Convention on 23 November 2007 and intends to ratify it before the end of 2010. Other States are aiming for similar timeframes.

#### Timing issues

35. Several States and the European Union are preparing for the implementation of the Convention. In the light of this momentum, iSupport should be developed now in order to facilitate this implementation. The iSupport system could even serve as an incentive for States to become Parties. States, organisations or vendors interested in investing in

---

<sup>36</sup> *Supra*, para. 18.

<sup>37</sup> See the Hague Conference website at < [www.hcch.net](http://www.hcch.net) >, under "Conventions", "Convention No 28" then "Practical information documents".

iSupport will have to envisage mid-term planning of about five years to recover their initial investment, for example through a user fee. That is probably the time it will take for the 20% of States that manage approximately 80% of the current worldwide volume of child support cases to become Parties to the Convention.

#### Most important characteristics of the potential vendor or group of vendors

36. On this basis, any vendor or group of vendors interested in the development, deployment, operation and maintenance of iSupport will have to commit for a period of at least five years. Any vendor in charge of development should be able to operate in a multilingual context in order to develop a multilingual system (preferably English, French and Spanish, other languages would be an asset). Furthermore, any vendor involved with the deployment, operation and maintenance of the system should be able to provide their services worldwide, that is, in any interested States, in addition to being able to serve these clients in their own language.

#### Models already in place

37. There are no similar systems in place at the international level in this area. However, there are many similar domestic systems to provide examples from experience. The main challenge resulting from the international context will be to develop a system that is flexible enough to be deployed on any platform without costly modifications, and that will meet every States' needs in terms of secured communications policies and protocols.

38. Lessons could be learned, in a cross-border situation, from the Schengen VISA model where each participating State may have its own domestic system which feeds into a central system for information exchange or operate on a peer-to-peer basis to exchange data with other domestic systems.

#### Development process to be all inclusive and co-ordinated by the Secretariat of the Hague Conference

39. The Secretariat of the Hague Conference, which holds the institutional memory regarding the development of the Convention and Protocol and has a co-ordinating role in ensuring the proper implementation and application of these instruments, will facilitate the development of iSupport with the assistance of working groups of States experts<sup>38</sup> and an advisory group of industry professionals, and through decisions made by interested States. The Secretariat will co-ordinate the input of States interested in the development of the system at each stage of the development process, from the establishment of the functional and technical requirements of the system to its deployment, including the actual organisation of a call for tender. iSupport will be developed in close co-operation with interested Members of the Organisation.

---

<sup>38</sup> Different Working Groups of States experts could be established to deal with issues such as: (1) functional requirements for case management; (2) functional requirements for Internet-based communications; (3) functional requirements for electronic transfer of funds; (4) technical requirements for system deployment; (5) technical requirements for Internet based communications; (6) public procurement; (7) contractual matters; (8) financial issues; (9) pilot project and deployment; and (10) Caseworker User Manual.

### Development in different phases

40. The development of the iSupport system has been and will continue to be a process that takes into account the wishes of interested States. It will be based mainly on functional requirements already adopted by States, such as those provided by the texts of the Convention and Protocol, or soon to be approved functional requirements such as the recommended forms and Country Profile, endorsed by the Diplomatic Session on 23 November 2007 and which in turn should be adopted by the November 2009 Special Commission on the implementation of the new instruments. Finally, the Practical Handbook for Caseworkers on the practical operation of the Convention, which has been prepared with a view to its adoption by the November 2009 Special Commission, will also provide important functional requirements on the processing of applications. As no statistical requirements have been decided upon yet, a statistical module will likely be developed at a later stage.

41. The development of the iSupport system has been and will continue to be a process in phases. Phase I should at a minimum include the development of the case management and communication systems. Phase II will be aimed at the development of an electronic fund transfer module.<sup>39</sup> Phase III could deal with statistical reporting and performance measurements. Phase IV could focus on linking the electronic version of the Country Profile with the electronic case management system in order to automatically generate functional requirements specific to States. But it is not recommended to proceed with such a phase until more tests can be conducted on the Country Profile. Consideration should be given to the combination of Phase I and Phase II. However, it appears that there may be enough benefits to implementing Phase I alone, since no international Internet-based communication system for child support is currently available and electronic transfers of funds between States are only taking place on an experimental basis. Phase I would bring immediate results to individual citizens, with applications under the Convention being dealt with faster, and to States, in the form of cost reductions and gains in efficiency.

### Financial issues (facilitation by the Secretariat of the Hague Conference)

42. The costs, detailed below under paragraph 45, as they will be incurred by the Permanent Bureau of the Hague Conference to facilitate the development process, will be the responsibility of Members of the Organisation, to be funded through voluntary contributions to the Supplementary Budget of the Organisation.

### Financial issues (production)

43. Starting sometime in 2010, costs will depend on the business model that interested States may decide upon, such as, for example:

- The production costs of the system as such could be treated as an investment to be recovered through licence fees or user fees during a period of about five years. The investment could be made by a group of interested Members of the Organisation or by a group of vendors or a combination of the two.
- This user fee could also be combined with interests made on the payments transferred for which there could be a compensation of three to four days.

---

<sup>39</sup> It is important to note that the development of a module for the electronic transfer of funds would not affect the possibility of developing in the future a Protocol to the Convention on the subject matter that could cover issues such as currency conversions.



- In the best-case scenario, the production costs could be the subject of a donation as was the case for the iChild case management system produced in co-operation with WorldReach Canada and the Government of Canada for the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.

#### Financial issues (post-production – pilot project, deployment, maintenance)

44. The costs for a pilot project and deployment (including hardware, implementation (cross-mapping of international and domestic databases), translation of software into languages other than English, French and Spanish, and customised features) would be borne by interested Members of the Organisation. On the other hand, maintenance and upgrade costs could be covered by user fees or interests on payment transfers which could be calculated on three to four days. It will also be important to fund resources at the Permanent Bureau for helpdesk operations and system review. Ultimately, one could envisage funding for the system through the Regular Budget of the Hague Conference.

### **Action plan**

#### **Ongoing actions**

##### Taking stock of existing models

- Survey of existing domestic electronic case management, communication and fund transfer systems

##### Seeking the support of interested Members of the Organisation

- Promote the development of iSupport

#### **Actions already completed**

##### Setting the proper legal environment

- Develop a medium-neutral text allowing for information technology solutions

##### Taking stock of existing models

- Survey existing domestic and international legal frameworks accommodating and promoting information technology solutions for the international recovery of child support and other forms of family maintenance

##### Functional requirements of iSupport

- Develop draft recommended standard forms in support of the 2007 Maintenance Convention
- Develop a draft Country Profile in support of the 2007 Maintenance Convention

##### Designing iSupport

- Develop a mock-up of an electronic case management, communication and fund transfer system

## **Actions to be undertaken**

### Seeking the support of interested Members of the Organisation

- Seek funding from interested Members of the Organisation in order to complete the design, to identify functional and technical requirements stages and to start the development process (excluding the costs of producing the software)

### Finalising the functional and technical requirements of iSupport for Phase I

- Adopt the recommended standard forms during the November 2009 Special Commission
- Adopt the Country Profile during the November 2009 Special Commission
- Adopt the Practical Handbook for Caseworker on the operation of the Convention during the November 2009 Special Commission
- Consult interested Members of the Organisation on their technical requirements for the implementation and operation of an electronic case management and Internet based communication system and establish a working group where necessary
- Validate the functional and technical requirements by an independent auditor at every step of the process

### Developing and finalising the functional and technical requirements of iSupport for Phase II

- Consult interested Members of the Organisation on their functional and technical requirements for the implementation and operation of an electronic transfer of funds module and establish a working group where necessary
- Validate the functional and technical requirements by an independent auditor at every step of the process

### Designing iSupport

- Up-date the mock-up of the iSupport system in light of the decided functional requirements
- Finalise the design of the iSupport system in consultation with interested Members of the Organisation
- Validate the functional and technical requirements by an independent auditor at every step of the process

### Deciding on a business model

- Obtain support in principle for the Draft Business Plan during the November 2009 Special Commission
- Set-up a working group which will make recommendations through the Permanent Bureau to the Council of the Conference on how to go about deciding who will develop, operate, maintain and update the iSupport system, including the principal characteristics of the vendor or group of vendors to be chosen. The same working group could make recommendations with regard to the financial issues concerning the system.

### Identifying, approaching and selecting potential vendors

- Identify, with the assistance of Members of the Organisation, potential interested vendors
- Invite potential interested vendors to a briefing session
- Prepare a tender offer in accordance with the business model
- Validate the call for tender with an outside legal counsel
- Launch the call for tender
- Select the vendor or group of vendors
- Address contractual issues resulting from the call for tender

Developing iSupport

- Produce the software in consultation with interested Members of the Organisation
- Draft the iSupport User Manual (English / French / Spanish)
- Validate the development by an independent auditor at every step of the process

Piloting and deploying iSupport

- Test-run the software with interested Members of the Organisation
- Deploy the software among interested Members of the Organisation

**Required resources**

45. In the coming years, until 2011, the Hague Conference will need, in addition to its Regular Budget, assistance in kind<sup>40</sup> or by way of financial contributions for a total of about 1,425,000 Euros,<sup>41</sup> in order to complete Phases I and II of the iSupport system, excluding the actual programming of the software, its pilot project and deployment. If the total amount received were to exceed that requested, the excess would be used for future developments phases of the project. The resources required for work in consultation and co-operation with interested States will include:

A – Staff costs

– Team Leader – a senior-level member of the Permanent Bureau to be assigned to the project on a part-time basis (50%), thereby ensuring transmission to the team of the institutional memory concerning the development of the new international instrument and to liaise with Members of the Organisation:

\* 51,500 Euros per year for 2 years starting September 2010

– Project Co-ordinator for technical requirements, development, pilot project and deployment for Phases I and II and overall day-to-day responsibility for the team:

\* 117,000 Euros per year for 2 years starting September 2010

– Project Assistant to co-ordinate contacts with potential vendors, open tender and contractual issues for Phases I and II:

\* 70,200 Euros per year for 2 years starting September 2010

– Project Assistant to co-ordinate the finalisation of the Phase I functional requirements and designs:

\* 70,200 Euros per year for 2 years starting January 2011

– Project Assistant to co-ordinate the electronic fund transfer functional requirements and design for Phase II:

70,200 Euros per year for 2 years starting either January 2011 or January 2012

– Support staff to assist the iSupport team for Phases I and II:

\* 39,000 Euros per year for 2 years starting September 2010

---

<sup>40</sup> Over the years some Member States of the Hague Conference have offered the Permanent Bureau officials on secondments for different periods of time. Examples of secondment agreements can be found in Annexes D and E.

<sup>41</sup> This amount includes employee benefits such as pension contributions and relocation benefits where applicable.

B – Travel and subsistence allowance costs for project staff

Missions (one, two or three days) to visit vendors (or group of vendors) during the development process and to States that will implement the software in order to assess required modifications on the spot:

\* 40,000 Euros

C – Equipment and offices

As the Hague Conference is short on office space it will have to rent 4 offices for the project:

\* 51,500 Euros for four (4) offices for two (2) years

Six (6) PCs (1,000 Euros each, including software) and two (2) laptops (2,000 Euros each, including software) will have to be acquired for the project

\* 6,667.20 Euros depreciation for a period of 24 months

D – Consumables and Supplies

N/A

E – In person meetings of an Advisory Board

Four two-day meetings of an Advisory Board made up of about 12 persons from interested States and the industry who will provide advice to the working groups and Permanent Bureau at different moments during the course of the project

\* 100,000 Euros for four meetings of two days, including travel expenses, accommodation and per diem for 12 persons.

F – Publications and dissemination

– Translation costs from June 2009 until May 2011 for Business Plan, General Information, Tender Offer (Contracts), Project Specifications and User Manuals (front end and back end):

\* 54,000 Euros (towards 2 languages (French and Spanish) at 0.18 Euros per word at 250 words per page for 600 pages)

All publications produced by the project and intended for the use of the project will be made available in electronic format at a very low cost.

G – Other possible direct costs

– Independent (1) verification and validation of call for tender and (2) outside legal counsel for contractual issues in Phase I:

\* 100,000 Euros ((1) in January 2010, (2) by mid-2010)

– Independent verification and validation of functional and technical requirements for Phases I and II:

\* 100,000 Euros per year for 2 years starting September 2009

## H – General expenses (operating costs)

Flat-rate funding in respect of indirect costs (maximum 7% of total eligible direct costs):  
\* 45,104.70 Euros (that is, 7% of 1,380,067.20 – office rent of 51,500 (under C above))

### Software production costs

– Software production costs (during and after finalisation of technical and functional requirements and design):

\* Starting January 2010, costs will depend on the business model chosen by the 2009 Special Commission, such as, for example:

- The production costs could be treated as an investment to be recovered through user fees over a period of five to ten years. The investment could be made by a group of interested Members of the Organisation or by a group of vendors, or a combination of the two.
- This user fee could also be combined with interest on payment transfers which could be calculated on three to four days.
- In the best-case scenario, the production costs could be the subject of a donation as was the case for the iChild case management system produced in co-operation with WorldReach Canada and the Government of Canada for the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.
- Maintenance and upgrade costs could be covered by a user fee or interest on payment transfers.
- Costs for the pilot project and deployment (including hardware, implementation (cross-mapping of international and domestic databases), translation of software into languages other than English, French and Spanish, and customised features) would be borne by interested States.

**ANNEXE A**

**VISION, MISSION, ATOUTS ET VALEURS**

\* \* \*

**ANNEX A**

**VISION, MISSION, STRENGTHS AND VALUES**

## **VISION, MISSION, STRENGTHS AND VALUES OF THE HAGUE CONFERENCE**

### **Vision**

- To work for a world in which individuals, families as well as companies and other entities whose lives and activities transcend the boundaries between different legal systems, enjoy a high degree of legal security.
- To promote the orderly and efficient settlement of disputes, good governance and the rule of law, while respecting the diversity of legal traditions.

### **Mission**

- To be a forum for the Members for the development and implementation of common rules of private international law in order to co-ordinate the relationships between different private law systems in international situations.
- To promote international judicial and administrative co-operation in the fields of protection of the family and children, civil procedure and commercial law.
- To provide high-standard legal services and technical assistance for the benefit of Member States and States Parties to Hague Conventions, their government officials, judiciary and practitioners.
- To provide high-quality and readily accessible information to Member States and States Parties to Hague Conventions, their government officials, judiciary, practitioners and the public in general.

### **Strengths and values**

#### ***Global network***

- The strength of the Hague Conference derives from the links it maintains with its Member States and States Parties to Hague Conventions – representing all continents – their national experts, delegates, Central and other national authorities, professional and academic communities and individuals, and from the co-operation with other international governmental and non-governmental organisations.

#### ***Diversity of legal traditions***

- The diversity of legal traditions constituting the Hague Conference makes it a unique forum for the development of universally acceptable solutions.

#### ***Experience***

- The Hague Conference is known for the high-quality and scientific excellence of its work, for the development of creative solutions and for its unrivalled contribution to private international law over a period of more than 100 years.

#### ***Reputation***

- The Hague Conference is a centre within which world experts and delegates are committed to working together on the basis of mutual trust, support and respect.

#### ***Location***

- The strengths of the Conference are enhanced by its location in The Hague, Centre for International Justice, and by the significant and sustained support offered by the Netherlands Government.

**ANNEXE B**

**INFORMATION ADDITIONNELLE CONCERNANT LE DÉVELOPPEMENT D'UN TEXTE  
NEUTRE RELATIF AU SUPPORT ET À LA TECHNOLOGIE**

\* \* \*

**ANNEX B**

**ADDITIONAL INFORMATION ON THE DEVELOPMENT OF A MEDIUM- AND  
TECHNOLOGY-NEUTRAL TEXT**



## ADDITIONAL INFORMATION ON THE DEVELOPMENT OF A MEDIUM AND TECHNOLOGY NEUTRAL TEXT

The term “signature” has been replaced by an identification / “authentication” requirement where a signature is required to make the link between an information or document and its author or originator.<sup>1</sup> On the other hand, where the signature signifies “consent” to a legal act or “approval” of the contents of information or documents a system of attestation will be used.<sup>2</sup> It is to be noted that signatures will be of little use in the State where the information is being sent (*i.e.* the requested State or the State addressed). First, the competent authorities in the receiving State will not be in a position to verify whether the signature belongs to the person it pertains to. Secondly, if the person signing the document makes a false declaration the consequences of this false declaration could only be effectively resolved in the State where that false declaration would have been made.

The term “agreement in writing”, which is a legal term of art, is more difficult to provide for in neutral terms. However, the expression benefits from a widely accepted and used functional equivalent which has passed the test of time in many international instruments. Thus, Article 3 *d)* provides that “ ‘agreement in writing’ means an agreement recorded in any medium, the information contained in which is accessible so as to be usable for subsequent reference”. The expression is used on three occasions in the Convention, once with regard to the definition of “maintenance agreement” in Article 3 *e)* and twice in relation to agreements with regard to jurisdiction<sup>3</sup>.

The term “original” does not appear once in the text of the Convention.<sup>4</sup> This required a number of adaptations to the text, understandably, since many legal systems, in evidentiary matters, give priority to originals of documents. However, because maintenance claims share many features of uncontested claims it was agreed to do away with the requirement of originals. But this does not mean that any document will be accepted as such under the Convention. The system put in place under the Convention will ensure in a first stage the swift transmission (whatever the medium employed) of applications, including accompanying documents, between Central Authorities, while recognising the need for sometimes making available at a later stage, most often probably for evidence purposes, a complete copy certified by the competent authority of certain documents.<sup>5</sup> This second transmission could be done by any means at the request of: (1) the requested Central Authority;<sup>6</sup> (2) the competent authority of the requested State;<sup>7</sup> and (3) further to a challenge or appeal by the defendant.<sup>8</sup> It is to be noted that in this latter case, a challenge or appeal may be founded only on the authenticity or integrity of the documents.<sup>9</sup>

---

<sup>1</sup> See for example Art. 11(1) *h)* of the Convention.

<sup>2</sup> See for example the first sentence of Art. 12(2) and the first sentence of Art. 16(3). It is to be noted that an attestation in relation to Art. 12(2) is included in all the forms developed for the applications provided for under Art. 10.

<sup>3</sup> Arts 18(2) *a)* and 20(1) *e)* of the Convention.

<sup>4</sup> Except for the reference to “original language” in Arts 44 and 45 of the Convention.

<sup>5</sup> This technique is very often used in the context of commercial arbitration and is being used more often in the context of court proceedings. The documents covered by this procedure under the Convention are: (1) the formal attestation stating the child’s means (Art. 16(3)); (2) the complete text of the decision (Art. 25(1) *a)*); (3) the document stating that the decision is enforceable in the State of origin (Art. 25(1) *b)*); (4) the document showing the amount of arrears (Art. 25(1) *d)*); (5) the abstract or extract of the decision drawn up by the competent authority of the State of origin (Art. 25(3) *b)*); and, (6) a complete text of the maintenance arrangement and a document stating that the particular maintenance arrangement is enforceable as a decision in the State of origin (Art. 30(3)).

<sup>6</sup> Art. 12(2) of the Convention.

<sup>7</sup> Art. 25(2) of the Convention.

<sup>8</sup> Arts 23(7) *c)*, 25(2) and 30(5) *b)*.

<sup>9</sup> It is to be noted that some States may want to extend by declaration this possibility to their competent authorities in application of Art. 24. Furthermore, it is also to be noted that in accordance with Art. 25(3) *a)* some States could declare “that a complete copy of the decision certified by the competent authority in the State of origin must accompany the application” at all times.

The negotiations revealed that a small number of States still make use of “sworn” statements when producing evidence. The solution found in this respect is similar to the one used for the “signature” requirement. This involves a combination of an attestation and the identification of the person or institution it pertains to.

Consultations with information technology law experts have confirmed that the “certification” requirement could be easily met irrespective of the medium or technology used. It is hoped that “certification” could be made without the need for signature or stamp with the help of an attestation and identification of the competent authority. Hopefully, we will see good practice in this respect emerge.

Finally, consultations have revealed that the use of terms such as “applications”, “requests”, “documents” and “texts” were sufficiently neutral to be used either in a paper environment or an electronic environment.

However, the development of a medium and technology neutral text did not mean that the entire Convention had to be medium neutral. For example, connecting factors such as “habitual residence” that point to a geographic location cannot be adapted to a virtual world. Furthermore, the Convention does not aim at changing material law of the future Contracting States to the Convention. In that respect, whether the defendant appears in person or by video link is left to domestic rules of procedure or rules of court. But the Convention should not prevent it.<sup>10</sup> In addition, there was no intention to change the rules concerning the transmission of treaty related documents such as Instruments of Ratification. The main objective was to ensure that the text of the Convention would create as few barriers as possible to the use of information technologies by Central Authorities in their mutual communications under the Convention.

Another issue that required the attention of the Secretariat of the Conference when developing the text of the Convention was the use of Public Key Infrastructures (PKIs) and certification authorities in relation to the transmission of data and above all their retransmission. Under the Convention, a large number of documents that will be transmitted from one Central Authority to another will originate from other bodies or persons in the requesting State, such as judicial or administrative authorities or the applicant, for the attention of similar bodies in the requested State or the defendant. This raises the difficult issue of retransmission of data, also called “in-chain transmission” of data. Further to consultations with the UNCITRAL Secretariat it was clear that existing technologies were limited in this respect. In fact, in receiving a document through a PKI communication from the Central Authority of State B, it will be long and complex for the Court in State B to verify the identity / “authentication” of the author and irrevocability of the document from State A sent through the Central Authority of State A. In addition, the UNCITRAL Secretariat brought to our attention the fact that PKI standards differ from one country to another. Therefore, even if in-chain PKI communications were possible it could be that State B would not accept documents transmitted electronically within State A because of those different standards. The UNCITRAL Secretariat also noted that it will take some time before judicial and administrative authorities issue and accept electronic documents that meet integrity, irrevocability and identification / “authentication” requirements. The solution retained in this respect is one that favours the cross-border transmission of information and documents between Central Authorities.

---

<sup>10</sup> See Art. 29 of the Convention.

**ANNEXE C**

**DESCRIPTION SOMMAIRE D'UNE SIMULATION DU SYSTÈME iSUPPORT**

\* \* \*

**ANNEX C**

**SUMMARY DESCRIPTION OF A MOCK-UP iSUPPORT SYSTEM**

## SUMMARY DESCRIPTION OF A MOCK-UP ISUPPORT SYSTEM

What follows is a brief description of the main functions of a mock-up of the iSupport system developed by the Secretariat of the Hague Conference (*i.e.*, the Permanent Bureau). The system will be divided into two groups: (1) General functions that will be available at any given screen (left hand side vertical menu) and (2) File specific functions available when a specific file is open (horizontal top menu).

### A) General Functions<sup>1</sup>



Under “Communication”, it will be possible to have access to the latest “Messages received” and “Applications received” from other Central Authorities or from colleagues from within the same Central Authority. Communications under the system would be limited to Central Authorities. “Messages received” could take the form of: (a) messages concerning a specific file or general information, (b) notes concerning a specific file, or (c) of action reminders / alerts. “Applications received” from another Central Authority concerning a specific file could include any application under Article 10, request under Article 6 in combination with an application under Article 10, forms under Article 12 and documents under Articles 25, 30 and 36. All messages and applications received would include a unique international case number indicating the name of the States concerned, the year the case was opened and an identifier number. As soon as the messages and applications would be read they would be automatically filed under their respective file numbers and would automatically populate the data contained in the iSupport case management system.<sup>2</sup>

Through “File”, it will be possible to: (a) “Open” an existing file using a search tool, (b) create a “New” file, and (c) consult a “Recent” file, for example one of the last 40 files for which an action has been taken including “Messages received” and “Applications received”.

Using “Features”, caseworkers will be able to change “Language” at any given point, for example when discussing a file in another language. The system could work in any language it had been translated into. Using the “Monitor” function it would be possible to set automatic reminders / alerts, either specific or general, for any action to be taken under the system. Finally, under the “Print Report” function it will possible to generate specific Hague Conference statistical reports or any other tailor-made reports.

<sup>1</sup> An enlarged version of this screen can be consulted at the end of this annex.

<sup>2</sup> With regard to the location of the data, see, *supra*, note 25.

The “Information” section will provide for example all the “Central Authorities Details” and “Country Profiles” of each State Party to the Convention. This section will also include a separate “e-mail support” for technical assistance purposes and general information “About” the iSupport system such as version number, latest updates and online Practical Handbook for Caseworkers.

Finally, the “User” section will indicate the “name” of the caseworker logged into the system, provide “Account information” concerning this user such as access rights and file allocation and include the “Log out” function.

## B) File Specific Functions<sup>3</sup>

File Brief	File Details	Applications Sent-Received	New Application	Establishment Modification	Recognition Enforcement	Transfer of Funds	Messages Notes
File Brief							
CA(ON)-US-2006-001	Smith	Seeking maintenance	Active				

The horizontal menu provides specific functions for the management of information with regard to individual files. The information found in each file is either inputted by the local caseworker or the file data information is automatically populated upon receipt and reading of applications from the counterpart Central Authority. As most of the information concerning a file will be shared between two Central Authorities (some of it could be blocked) the information in the two separate case management systems will be up-dated either upon receipt and reading of Applications or simply by EDI<sup>4</sup> with a notification. At the top of each “File” screen, a summary bar will indicate the “file number”, the “name” and the “category” of the file (*i.e.*, whether the person is “seeking maintenance” or “paying maintenance”), and the “status” of the file (*i.e.*, whether the file is “active” or “closed”).

The “File brief” function generates a table that includes a “File summary” (*i.e.*, file numbers, family name, category, status and the number of persons for whom maintenance is sought), a “File location” (*i.e.*, country concerned, sub-national unit, if applicable, and name of country) and the relevant dates (*i.e.*, application date, file opened and file closed).

The “File details” function generates a table that includes more detailed information. In summary, it will provide most of the minimum information required according to Article 11 for all parties involved.

The “Applications Sent-Received” function provides a list of all the requests, applications, forms and documents sent and received for a specific file under Articles 6, 10, 12, 25, 30 and 36. It provides, at a glance, the history of a file.

The “New Application” function is used to fill in an application on line under Article 10, a request under Article 6 in combination with an application under Article 10, forms under Article 12 and documents under Articles 25, 30 and 36. When opening any of these documents, all the fields for which there is information already inputted in the “File brief” and “File details” tables are filled automatically by the system. This also includes the name and contact details of the Central Authorities concerned.

Both the “Establishment / Modification” and “Recognition and Enforcement” functions are meant to assist the management of the information pertaining to these applications either as a Requesting or a Requested Central Authority. They assist tracking the general application history such as the date of the application, whether it has been accepted, if further information is required, if the parties are entitled to legal assistance, etc. They also help

<sup>3</sup> An enlarged version of this screen can be consulted at the end of this annex.

<sup>4</sup> Electronic Data Interchange.

follow the file history before the competent authority such as where and when the application was filed, the hearing date, whether maintenance was ordered and on what date and if not for which reasons. The system is set to follow the case at first instance, appeal and at last appeal levels. The system will provide a summary of the decision as developed in the Abstract of the Decision under Article 25(3) *b*). Finally, the system will allow the monitoring of enforcement measures such as the ones listed under Article 34.

The case specific functions include a "Transfer of Funds" module that will assist the enforcement and monitoring of electronic transfer of funds.

Finally, through the use of a "Messages – Notes" function, it will be possible for a caseworker to send messages, either to colleagues or to the other Central Authority involved with the case, some information specific to a case or to add notes or attach documents to a file in order to supplement the case management where it has its own limitations. It is also under that function that the caseworker will obtain the list of all the messages and notes received and sent with regard to a specific case.

With the text of the Convention now adopted, the Secretariat of the Hague Conference, in consultation with interested States – as it is done for other post-Convention services – could initiate the establishment of functional and technical requirements in order to launch an invitation to tender and to start raising the necessary funding to co-ordinate the building of the iSupport system.<sup>5</sup>



---

<sup>5</sup> The drawing-up of a blueprint, development of functional and technical requirements, design, development, testing and deployment of the system will require additional resources for a period of at least two years.

## A) General Functions

The screenshot shows the iSupport web application interface. At the top left is the Hcch logo with the text 'HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW' and 'CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ'. Below the logo is the 'iSupport' logo. A dark blue navigation bar contains several empty menu items. On the left side, there is a teal sidebar with the following sections: 'Communication' (Messages received (3), Applications received (5)), 'File' (Open, New, Recent), 'Features' (Language, Monitor, Print Report), 'Information' (CAs Details, Country Profiles, E-mail support, About), 'User' (Name : Name, Account information), and 'Log out'. The main content area features a welcome message in English: 'Welcome International Electronic Management System for the Recovery of Maintenance' and a French version: 'Bienvenue Système international de gestion électronique pour le recouvrement des aliments'. The 'iSupport' logo is centered between the two messages. At the bottom, a copyright notice reads: '© 2006, Conférence de La Haye de droit international privé / Hague Conference on Private International Law. Tous droits réservés / All Rights Reserved.'

**B) File Specific Functions**

 <b>HccH</b> HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ									
		File Brief	File Details	Applications Sent-Received	New Application	Establishment Modification	Recognition Enforcement	Transfer of Funds	Messages Notes
<b>Communication</b> Messages received (3) Applications received (5)		<b>File Brief</b>							
		CA(ON)-US-2006-001	Smith	Seeking maintenance	Active				



**ANNEXE D**  
**CONTRAT AUSTRALIEN**  
**Proposition d'accord**

\* \* \*

**ANNEX D**  
**AUSTRALIAN CONTRACT**  
**Arrangement proposal**

## AUSTRALIAN CONTRACT

### Arrangement proposal

1	The Permanent Bureau of the Hague Conference has inadequate resources for the tasks it is currently required to perform. The dramatic increase in workload is caused primarily by the time spent on the administration, monitoring and support of existing children's Conventions (Abduction and Adoption) – <i>Price Waterhouse Coopers "The Hague Conference on Private International Law: Resource Deficiencies and Strategic Positioning", May 2001.</i>
2	The Commonwealth Attorney-General's Department is willing to make a one off grant of \$A131,000 to the Hague Conference for the purpose of enabling the Permanent Bureau to enter an arrangement for a person to work with the Permanent Bureau for 12 months commencing January 2001.
3	The person would undertake the following work: <ul style="list-style-type: none"> <li>(a) assist in work arising from the conclusions and recommendations of the Special Commissions (November 2000 and March 2001) which examined the operation of the existing children's Conventions (Abduction and Adoption);</li> <li>(b) assist in work on strengthening Central Authority networks under the existing children's Conventions (Abduction and Adoption);</li> <li>(c) assist in developing a guide for good practice under the Abduction Convention;</li> <li>(d) assist in completing a project on international child/parent contact/access;</li> <li>(e) assist in development of a new international instrument on the recovery of maintenance;</li> <li>(f) assist in any other aspect of the Hague Project for International Co-operation and Protection of Children.</li> </ul>
4	The \$A131,000 payment is intended to cover salary, accommodation, airfares to and from the Hague and incidental expenditure.
5	Any additional expenses incurred by the Hague Conference or the person as a result of the arrangement would be met by the Hague Conference or the person.
6	The Commonwealth Attorney-General's Department is willing to make an officer available to the Permanent Bureau on a fee for service basis. In return for the fee payments, the Department will pay, directly to the officer, the officer's salary (and on costs), an accommodation allowance (up to \$A36,000) and incidental expenditure (up to \$A10,000). The Department will also be responsible for the cost of the officer's travel to and from the Hague.

7	The Hague Conference would make four fee payments to the Commonwealth Attorney-General's Department of \$32,750 each (\$131,000/4). The Family Law Branch of the Department would invoice the Permanent Bureau every 3 months for this purpose.
8	Within 3 months of the conclusion of the arrangement, a report on the outcomes/outputs achieved by the Hague Conference as a result of the grant would be prepared by the Permanent Bureau and sent by the Director General to the General Manager (Civil Justice and Legal Services) of the Commonwealth Attorney-General's Department.
9	<p>For the period of the arrangement, the officer would represent the Permanent Bureau rather than Australia in any meetings or communications with representatives of other countries or international organisations.</p> <p>For the period of the arrangement, the officer would not represent Australia for any purpose without the authorisation in writing of the General Manager (Civil Justice and Legal Services) of the Commonwealth Attorney-General's Department.</p> <p>The Permanent Bureau would continue to communicate via the Australian Embassy or directly with the Civil Justice Division of the Commonwealth Attorney-General's Department on matters unrelated to 3 above (including Conference meetings, membership, treaty actions, budget, work program, funding).</p>

**ANNEXE E**

**ENTENTE ENTRE LA DIRECTION GÉNÉRALE DES AFFAIRES JURIDIQUES ET  
LÉGISLATIVES DU MINISTÈRE DE LA JUSTICE DU QUÉBEC ET  
LA CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ  
CONCERNANT LE DÉTACHEMENT DE M<sup>e</sup> PATRICK GINGRAS**

\* \* \*

**ANNEX E**

**AGREEMENT BETWEEN THE GENERAL DIRECTORATE OF LEGAL AND  
LEGISLATIVE AFFAIRS OF THE DEPARTMENT OF JUSTICE OF QUEBEC AND THE  
HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW REGARDING THE  
SECONDMENT OF Me. PATRICK GINGRAS**



**General Directorate of Legal and  
Legislative Affairs**



**Agreement between the General Directorate of Legal and  
Legislative Affairs of the Department of Justice of Quebec and the Hague Conference  
on Private International Law regarding the secondment of Me. Patrick Gingras**

[Translation by the Permanent Bureau]

The Secretary General of the Hague Conference on Private International Law (HCCH) and the General Directorate of Legal and Legislative Affairs (DGAJL) of the Department of Justice of Quebec,

aware of the mission of the HCCH to work for progressive unification of the rules of private international law and to promote international judicial and administrative co-operation in the fields of protection of the family and children, of civil procedure, and of commercial and financial law;

whereas the HCCH has requested the collaboration, by means of secondment, of experts in order to fulfil its work program;

acknowledging the importance of co-operation in order to achieve these goals;

have agreed as follows:

The DGAJL hereby agrees to second the services of Me. Patrick Gingras to the HCCH for a term of three (3) months, from 31 January 2005 to 30 April 2005.

During that secondment, Me. Gingras, under the supervision of Me. Philippe Lortie, shall collaborate in the work program described in Appendix A hereto. Furthermore, Me. Gingras shall represent the HCCH (and not Quebec) at each meeting or representative activity in relation to other countries or international organisations, and may not represent Quebec absent consent in writing from the DGAJL.

At the end of the secondment, the HCCH shall provide the DGAJL and Me. Gingras with a secondment certificate describing the tasks that he has performed.

For the purposes of this secondment, the DGAJL shall assume the regular compensation for Me. Gingras and no claim for overtime may be made. All other expenses connected with the secondment, including adequate medical coverage, shall be assumed by Me. Gingras, against his personal resources and with the financial contribution obtained from the Under-Secretariat for the government information superhighway and information resources of the Secretariat of the Treasury Board of Quebec.

The HCCH shall provide to the DGAJL the information required to keep the regular attendance record for Me. Gingras up to date.

This secondment shall be subject to Article 455 of the Collective Agreement for lawyers and notaries of the Quebec civil service.

IN WITNESS THEREOF, the parties have executed this instrument in three (3) copies, at the following dates and locations.

**THE DGAJL,**

\_\_\_\_\_  
(Date)

by:

\_\_\_\_\_  
**Me. Danièle Montminy**  
Associate Deputy Minister

\_\_\_\_\_  
(City)

**The HCCH,**

\_\_\_\_\_  
(Date)

by :

\_\_\_\_\_  
**Hans Van Loon, Secretary General**  
(HCCH seal)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(Date)

by:

\_\_\_\_\_  
**Me. Philippe Lortie**  
First Secretary

\_\_\_\_\_  
(City)

**Me. Patrick Gingras**

\_\_\_\_\_  
(Date)

by:

\_\_\_\_\_

\_\_\_\_\_  
(City)

Appendix ASecondment of Me. Patrick Gingras to the Permanent Bureau of the HCCH

Description of work program (31 January 2005 to 30 April 2005)

Communications between Central Authorities using information technology<sup>1</sup>

- 1) Identify and describe the information technology, including in particular with respect to security and confidentiality, that may be used on a bilateral basis between Central Authorities designated pursuant to the Tentative draft Convention on the international recovery of child support and other forms of family maintenance. The legal framework for such communications shall be based on the UNCTAD model law on electronic commerce and the UNCTAD model law on electronic signatures. A parallel with the Quebec Act to establish a legal framework for information technology may also be used.
- 2) Identify and describe good practices relating to the use of the information technology identified and described under 1), having regard, inter alia, to the obligations and requirements provided for under the Tentative draft Convention on the international recovery of child support and other forms of family maintenance, and to the field of evidence and the protection of personal information.
- 3) Identify and describe the obligations and responsibilities of States, having regard, if applicable, to service-provider intermediaries, in the implementation of the information technology identified and described under 1).
- 4) Submit one or more standard agreements for implementation of the information technology identified and described under 1), integrating the good practices identified and described under 2), together with the obligations and responsibilities identified and described under 3).
- 5) Work on any other relevant feature of the proposal that may, inter alia, affect the Hague Conventions relating to international judicial and administrative co-operation.

---

<sup>1</sup> Work in line with Prel. Doc. No 9 of May 2004 on transfer of funds and the use of information technology in relation to the international recovery of child support and other forms of family maintenance, report drafted by Philippe Lortie, First Secretary, for the attention of the Special Commission meeting of June 2004 on the international recovery of child support and other forms of family maintenance.