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RAPPORT D'ÉTAPE SUR L'ÉLABORATION D'UN NOUVEL INSTRUMENT MONDIAL SUR LE RECOUVREMENT INTERNATIONAL DES ALIMENTS ENVERS LES ENFANTS ET D'AUTRES MEMBRES DE LA FAMILLE

établi par le Bureau Permanent

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PROGRESS REPORT ON THE DEVELOPMENT OF A NEW INTERNATIONAL INSTRUMENT ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE

drawn up by the Permanent Bureau

Document préliminaire No 17 de mars 2007
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PROGRESS REPORT ON THE DEVELOPMENT OF A NEW INTERNATIONAL INSTRUMENT ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE

The Fourth meeting of the Special Commission on the International Recovery of Child Support and other Forms of Family Maintenance was held in The Hague from 19-28 June 2006. The first three meetings took place in 2003, 2004 and 2005. Negotiations are now moving towards completion. A final meeting of the Special Commission is to take place from 8-16 May 2007 and the Diplomatic Session to finalise and approve the text of the Convention will take place from 5-23 November 2007.

The Fourth meeting of the Special Commission was attended by experts from 53 States and by Observers from five intergovernmental organisations and six non-governmental organisations. The total number of States so far involved in meetings of the Special Commission is 70. In the absence of the Chairman, Mr Fausto Pocar of Italy, the meeting was chaired by Ms Mária Kurucz, the Deputy Chair and Expert from Hungary. The Agenda for the meeting was based on the tentative draft Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Prel. Doc. No 16 of October 2005). A paper entitled "Issues arising under the tentative draft Convention on the International Recovery of Child Support and Other Forms of Family Maintenance" (Prel. Doc. No 21 of June 2006) identified the major issues remaining to be resolved in the negotiations.

Some significant amendments were made in the tentative draft Convention text. In relation to scope and reservations on scope, there was agreement that all Chapters of the draft Convention will apply to maintenance obligations arising from a parent-child relationship towards a child under the age of 21, and possibly also to claims for spousal support when combined with a claim for child support. With regard to spousal support alone, all Chapters of the Convention will also apply, save for the Chapters relating to administrative co-operation (Chapters II and III) which will apply only when a Contracting State makes a positive declaration to that effect. It will be open to a Contracting State by declaration to extend the application of the whole or any part of the Convention to any other maintenance obligations arising from a family relationship, parentage, marriage or affinity. Progress was also made in clarifying the different types of procedure concerning maintenance obligations, which must be made available by Contracting States. Also the procedures for recognition and enforcement of a foreign decision were further refined.

As in previous meetings, there was considerable discussion on such issues as the nature and extent of Central Authority functions, the types of applications that must be made available and whether they may be made only through a Central Authority or whether they may also be made by direct application to a Competent Authority in the country addressed; as well as costs of procedures and effective access to procedures. The implications of including "authentic instruments and private agreements" within Chapter V on Recognition and Enforcement were further explored without any final decision being taken (Art. 26).

The Special Commission authorised the Drafting Committee, under the Chairmanship of Mrs Jan Marie Doogue of New Zealand, to prepare a preliminary draft Convention for the attention of the Twenty-first Session of the Conference. The Drafting Committee completed its work at a meeting in The Hague from 11-15 September 2006, and the preliminary draft Convention on the International Recovery of Child Support and other forms of Family Maintenance was circulated in January 2007 (Prel. Doc. No 25 of January 2007 for the attention of the Twenty-first Session of November 2007), together with Observations of the Drafting Committee on the Text of the preliminary draft Convention (Prel. Doc. No 26 of January 2007 for the attention of the Twenty-first Session of November 2007). The preliminary draft Convention is annexed to this document.

As will be seen from the text, among the matters on which decisions or final decisions have yet to be taken are:

- the formulation of Article 14 concerning effective access to procedures;
- the grounds upon which an application for the registration for enforcement (or declaration of enforceability) of a foreign maintenance decision may be reviewed *ex officio* (Art. 20(5));
- co-ordination with other instruments (Arts. 44-46);
- the provision of information concerning laws, procedures and services (Art. 51);
- final provisions generally (Chapter IX);
- whether there will be mandatory forms for applications (Art. 11).

Following further discussions in the Special Commission of an optional Protocol or Chapter of the Convention on the law applicable to maintenance obligations, the Working Group on Applicable Law met, under the Chairmanship of Mr Andrea Bonomi of Italy, from 17-18 November 2006, and prepared a "Working Draft on Applicable Law" (Prel. Doc. No 24 of January 2007 for the attention of the Special Commission of May 2007), which was circulated in January 2007. The Fifth meeting of the Special Commission, to be held from 8-16 May 2007, will be devoted primarily to the subject of applicable law. There will also be some discussion of access to procedures and a brief further consideration of the procedure for recognition and enforcement of a maintenance decision.

The work of the Administrative Co-operation Working Group (ACWG) and of the Forms Committee, both established by the Special Commission, is detailed in Preliminary Document No 13. The work of the ACWG and its two sub-committees on "country profiles" and "monitoring and review" has been carried on mainly through conference calls. An in-person meeting of the ACWG, together with a meeting of country profile sub-committee, is to be held in London from 14-16 March 2007. The ACWG has been discussing among other things how best to promote on-going networking among Central Authorities appointed under the Convention as well as the development of Guides to Good Practice on the implementation and on the practical operation of the Convention. The work of the ACWG and of its Country Profiles sub-committees has been facilitated by generous funding from the United States of America and Canada respectively.

Preparations are proceeding for the Diplomatic Session from 5-23 November 2007. The relevant States and Organisations have been asked for their observations on the preliminary draft Convention. The Report on the preliminary draft Convention drawn up by the Co-Reporters, Mrs Alegría Borrás of Spain and Ms Jennifer Degeling of the Permanent Bureau, will be circulated in the near future. It is expected that the Special Commission, at its fifth and final meeting in May 2007, will complete its work on the law applicable to maintenance obligations, and that a preliminary draft of the optional Chapter or Protocol on that subject will be circulated soon after that meeting.

In the light of the importance of ensuring that the final negotiations on the new Convention are as inclusive as possible, Members of the Hague Conference are invited to contribute to the fund which has been established to enable participation of experts from certain named States. (See Prel. Doc. No 16, Supplementary Budget at Annex C.)

ANNEXE / ANNEX

PRELIMINARY DRAFT CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE

[Note: Except where otherwise indicated, square brackets are used to signify text which is tentative or which deals with a matter which was not fully considered by the Special Commission.]

PREAMBLE

The States signatory to the present Convention,

[Desiring to improve co-operation among States for the international recovery of child support and other forms of family maintenance,

Aware of the need for procedures which produce results and are accessible, prompt, efficient, cost-effective, responsive, and fair,

Wishing to build upon the best features of existing Hague Conventions and other international instruments,

Seeking to take advantage of advances in information technology and to create a flexible system which can continue to evolve as needs change and further advances in technology create new opportunities,

Recalling that, in accordance with Articles 3 and 27 of the *United Nations Convention on the Rights of the Child* of 20 November 1989,

- in all actions concerning children the best interests of the child shall be a primary consideration,
- every child has a right to a standard of living adequate for the child's physical, mental, spiritual and social development,
- the parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development, and
- States should take all appropriate measures, including the conclusion of international agreements, to secure the recovery of maintenance for the child from the parent(s) or other responsible persons, in particular where such persons live in a State different from that of the child,

Have resolved to conclude this Convention and have agreed upon the following provisions –]

CHAPTER I – OBJECT, SCOPE AND DEFINITIONS

Article 1 Object

The object of the present Convention is to ensure the effective international recovery of child support and other forms of family maintenance in particular by –

a) establishing a comprehensive system of co-operation between the authorities of the Contracting States;

b) making available applications for the establishment of maintenance decisions ;

c) providing for the recognition and enforcement of maintenance decisions; and

d) requiring effective measures for the prompt enforcement of maintenance decisions.

Article 2 Scope[1]

1. This Convention shall apply to maintenance obligations arising from a parent-child relationship towards a child under the age of 21 [including claims for spousal support made in combination with claims for maintenance in respect of such a child] and, with the exception of Chapters II and III, to spousal support.

2. Any Contracting State may declare in accordance with Article 58 that it will extend the application of the whole or any part of the Convention to any maintenance obligation arising from a family relationship, parentage, marriage or affinity. Any such declaration shall give rise to obligations between two Contracting States only in so far as their declarations cover the same maintenance obligations and parts of the convention.

[3. The provisions of this Convention shall apply to children regardless of the marital status of the parents.]

4. The Convention also applies to claims by a public body in respect of maintenance obligations covered by paragraphs (1), (2) [and (3)].

Article 3 Definitions

For the purposes of this Convention –

a) "creditor" means an individual to whom maintenance is owed or is alleged to be owed;

b) "debtor" means an individual who owes or who is alleged to owe maintenance;

[c*)* "legal assistance" includes legal advice, assistance in bringing a case before an authority, legal representation and exemption from costs of proceedings;]

d) "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.

[1] At least one delegation expressed concern with regard to applying any part of the Convention to anyone other than children.

CHAPTER II – ADMINISTRATIVE CO-OPERATION

Article 4 Designation of Central Authorities

1. A Contracting State shall designate a Central Authority to discharge the duties that are imposed by the Convention on such an authority.

2. Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and shall specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

3. The designation of the Central Authority or Central Authorities, their contact details, and where appropriate the extent of their functions as specified in paragraph 2, shall be communicated by a Contracting State to the Permanent Bureau of the Hague Conference on Private International Law at the time when the instrument of ratification or accession is deposited. Contracting States shall promptly inform the Permanent Bureau of any changes.

Article 5 General functions of Central Authorities

Central Authorities shall –

a) co-operate with each other and promote co-operation amongst the competent authorities in their States to achieve the purposes of the Convention;

b) provide information to the Permanent Bureau as to the laws and procedures concerning maintenance obligations in their States;

c) seek as far as possible solutions to difficulties which arise in the application of the Convention.

Article 6 Specific functions of Central Authorities

1. Central Authorities shall provide assistance in relation to applications under Chapter III. In particular they shall –

a) transmit and receive such applications;

b) initiate, or facilitate the institution of, proceedings in respect of such applications.

2. In relation to such applications they shall take all appropriate measures –

a) where the circumstances require, to provide or facilitate the provision of legal assistance;

b) to help locate the debtor or the creditor;

c) to help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets;

d) to encourage amicable solutions with a view to obtaining voluntary payment of maintenance, where suitable by use of mediation, conciliation or similar processes;

e) to facilitate the ongoing enforcement of maintenance decisions including any arrears;

f) to facilitate the collection and expeditious transfer of maintenance payments;

g) to facilitate the obtaining of documentary or other evidence;

h) to provide assistance in establishing parentage where necessary for the recovery of maintenance;

[*i)* to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application;]

j) to facilitate service of documents.

3. The functions of the Central Authority under this Article may, to the extent permitted under the law of that State, be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State. The designation of any such public bodies or other bodies as well as their contact details and the extent of their functions shall be communicated by a Contracting State to the Permanent Bureau of the Hague Conference on Private International Law. Contracting States shall promptly inform the Permanent Bureau of any changes.

4. Nothing in this Article or Article 7 shall be interpreted as imposing an obligation on a Central Authority to exercise powers that can be exercised only by judicial authorities under the law of the requested State.

Article 7 Requests for specific measures

1. A Central Authority may make a request, supported by reasons, to another Central Authority to take appropriate specific measures under Article 6(2) *b)*, *c)*, [*g)*, *h)*, *i)* and *j)*] when no application under Article 10 is pending. The requested Central Authority shall take such measures if satisfied that they are necessary to assist a potential applicant [in making an application under Article 10 or] in determining whether such an application should be initiated.

[2. A Central Authority may also take specific measures on the request of another Central Authority in relation to a case having an international element concerning the recovery of maintenance pending in the requesting State.]

Article 8 Central Authority costs

1. Each Central Authority shall bear its own costs in applying this Convention.

2. Central Authorities may not impose any charge on an applicant for the provision of their services under the Convention save for exceptional costs or expenses arising from a request for a specific measure under Article 7.

CHAPTER III – APPLICATIONS THROUGH CENTRAL AUTHORITIES

Article 9 Application through Central Authorities

An application under this Chapter shall be made through the Central Authority of the Contracting State in which the applicant resides to the Central Authority of the requested State. For the purpose of this provision, residence excludes mere presence.

Article 10 Available applications

1. The following categories of application shall be available to a creditor in a requesting State seeking to recover maintenance under this Convention –

a) recognition or recognition and enforcement of a decision;

b) enforcement of a decision made or recognised in the requested State;

c) establishment of a decision in the requested State where there is no existing decision, including where necessary the establishment of parentage;

d) establishment of a decision in the requested State where recognition and enforcement of a decision is not possible or is refused because of the lack of a basis for recognition and enforcement under Article 17 or on the grounds specified in Article 19 *b)* or *e)*;

e) modification of a decision made in the requested State;

f) modification of a decision made in a State other than the requested State;

2. The following categories of application shall be available to a debtor in a requesting State against whom there is an existing maintenance decision –

a) modification of a decision made in the requested State;

b) modification of a decision made in a State other than the requested State.

3. Save as otherwise provided in this Convention, the applications in paragraphs 1 and 2 shall be determined under the law of the requested State, and applications in paragraphs 1 *c)* to *f)* and 2, shall be subject to the jurisdictional rules applicable in the requested State.[2]

Article 11 Application contents

Option 1 (if no mandatory forms exist)

1. All applications under Article 10 shall as a minimum include –

a) a statement of the nature of the application or applications;

b) the name and contact details, including the address, and date of birth of the applicant;

c) the name and, if known, address and date of birth of the respondent;

d) the name and the date of birth of any person for whom maintenance is sought;

e) the grounds upon which the application is based;

f) in an application by a creditor, information concerning where the maintenance payment should be sent or electronically transmitted;

[2] One delegation expressed concern in relation to this paragraph.

g) save in an application made under Article 10(1) *a)*, any information or document specified by declaration in accordance with Article 58 by the requested State;

[*h)* the name and contact details of the person or unit from the Central Authority of the requesting State responsible for processing the application.]

2. As appropriate, and to the extent known, the application shall in addition in particular include –

a) the financial circumstances of the creditor;

b) the financial circumstances of the debtor including the name and address of the employer of the debtor and the nature and location of the assets of the debtor;

c*)* any other information that may assist with the location of the respondent.

3. The application shall be accompanied by any necessary supporting information or documentation including documentation concerning the entitlement of the applicant to legal assistance. In the case of applications under Article 10(1) *a)*, the application shall be accompanied only by the documents listed under Article 21.

4. An application under Article 10 may be made in the form recommended and published by the Hague Conference on Private International Law.

Option 2 (if mandatory forms exist)

Applications under Article 10 shall be in accordance with the forms annexed to this Convention and shall be accompanied by any necessary documents, without prejudice, save in relation to an application under Article 10(1) *a)*, to the right of the requested State to require further information or documents in appropriate cases.

Article 12 Transmission, receipt and processing of applications and cases through Central Authorities

1. The Central Authority of the requesting State shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application.

2. The Central Authority of the requesting State shall, when satisfied that the application complies with the requirements of the Convention, transmit the application to the Central Authority of the requested State. The application shall be accompanied by the transmittal form set out in Annex 1 to the Convention. [The Central Authority of the requesting State shall, when requested by the Central Authority of the requested State, provide a complete copy certified by the competent authority in the State of origin of any document specified under Article 21(1) *a), b)* and *d)* [and 26(2)].]

3. The requested Central Authority shall within six weeks from the date of receipt of the application, acknowledge receipt [in the form the content of which is set out in Annex ..] and inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority shall provide to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.

4. Within 3 months after the acknowledgement, the requested Central Authority shall inform the requesting Central Authority of the status of the application.

5. Requesting and requested Central Authorities shall –

a) keep each other informed of the person or unit responsible for a particular case;

b) keep each other informed of the progress of the case and provide timely responses to enquiries.

6. Central Authorities shall process a case as quickly as a proper consideration of the issues will allow.

7. Central Authorities shall employ the most rapid means of communication at their disposal.

8. A requested Central Authority may refuse to process an application only if it is manifest that the requirements of this Convention are not fulfilled. In such case, that Central Authority shall promptly inform the requesting Central Authority of its reasons.

9. The requested Central Authority may not reject an application solely on the basis that additional documents or information are needed. However, the requested Central Authority may ask the requesting Central Authority to produce these within a period of at least 3 months. If the requesting Central Authority does not produce the additional documents or information within that period, the requested Central Authority may decide that it will no longer process the application, in which case it shall inform the requesting Central Authority of this decision.

[*Article 13 Means of communications – Admissibility*

The admissibility in the courts or administrative authorities of the Contracting States of any application transmitted by the Central Authority of a requesting State in accordance with the terms of this Convention, or of any documents or other information appended thereto or provided by a Central Authority, may not be challenged by reason only of the medium or means of communications employed between the Central Authorities concerned.]

Option 1

Article 14 Effective access to procedures

1. The requested State shall provide applicants with effective access to the procedures, including appeal procedures, arising from applications under Chapter III, where necessary by the provision of free legal assistance.

2. The requested State shall not be obliged to provide the legal assistance referred to in paragraph 1 where the procedures are designed to enable the applicant to make the case without the need for such assistance, and where the Central Authority provides such free services as are necessary.

3. The provision of free legal assistance may be made subject to a means or a merits test. A Contracting State may declare in accordance with Article 58 that it will provide free legal assistance in applications concerning child support on the basis of the assessment of the child's means only, or without any means test at all.

4. Entitlements to free legal assistance shall not be less than those available in equivalent domestic cases.

[5. A creditor, who in the State of origin has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in any proceedings for recognition or enforcement, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.]

6. No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in proceedings brought by a creditor under the Convention.

[7. A Contracting State may declare in accordance with Article 58 that it will provide free legal assistance in applications concerning child support on the basis of reciprocity with any other Contracting State that makes the same declaration.]

Option 2 (Articles 14 to 14* quater*)

Article 14 Effective access to procedures

1. The requested State shall provide applicants with effective access to the procedures, including enforcement and appeal procedures, arising from applications under Chapter III, where necessary by the provision of free legal assistance.

2. The requested State shall not be obliged to provide the legal assistance referred to in paragraph 1 where the procedures are designed to enable the applicant to make the case without the need for such assistance, and where the Central Authority provides such free services as are necessary.

Article 14* bis *Free legal assistance for child support applications

1. Subject to paragraph 2 of this Article, free legal assistance shall be provided in respect of all applications under Chapter III concerning child support.

2. The requested Central Authority may –

a) impose reasonable charges for the costs of genetic testing when such testing is necessary in order to establish a maintenance decision in that State; or

b) if it considers that, on the merits, the application is manifestly unfounded, refer the application to the appropriate body in the requested State, for a determination of the eligibility for free legal assistance under Article 14 *ter* (1); or, if after a decision has been made on the substance of an application, the competent authority determines that the application was frivolous, seek reimbursement of costs and reasonable legal fees;

c) where it considers that the economic situation of the applicant is disproportionate to the requirements under which legal assistance applicants are deemed able to bear the costs of proceedings, so inform the requesting Central Authority. If the requesting Central Authority determines that, in the requesting State, the applicant would be entitled in an international case under the same circumstances to free legal assistance, the requested Central Authority shall provide free legal assistance. If the requesting Central Authority determines that the applicant would not be entitled to free legal assistance in the requesting State, it shall so notify the requested Central Authority. With prior authorisation of the applicant, the requested Central Authority shall proceed upon the application and may charge for legal assistance.

Article 14* ter *Free legal assistance for applications for other forms of maintenance

In cases other than applications under Chapter III concerning child support –

a) the provision of free legal assistance may be made subject to a means or a merits test.

b) entitlements to free legal assistance shall not be less than those available in equivalent domestic cases.

c) a creditor, who in the State of origin has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in any proceedings for recognition or enforcement, to benefit from the same legal aid or exemption from costs or expenses provided for by the law of the State addressed under the same circumstances.

Article 14* quater *Security for costs

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in proceedings brought by a creditor under the Convention.

CHAPTER IV – RESTRICTIONS ON BRINGING PROCEEDINGS

Article 15 Limit on proceedings

1. Where a decision is made in a Contracting State where the creditor is habitually resident, proceedings to modify the decision or to make a new decision cannot be brought by the debtor in any other Contracting State as long as the creditor remains habitually resident in the State where the decision was made.

2. The previous paragraph shall not apply –

a) where, except in disputes relating to maintenance obligations in respect of children, there is agreement in writing between the parties to the jurisdiction of that other Contracting State;[3]

b) where the creditor submits to the jurisdiction of that other Contracting State either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;

c) where the competent authority in the State of origin cannot, or refuses to, exercise jurisdiction to modify the decision or make a new decision; or,

d) where the decision made in the State of origin cannot be recognised or declared enforceable in the Contracting State where proceedings to modify the decision or make a new decision are contemplated.

[3] One delegation expressed concern about this paragraph.

CHAPTER V – RECOGNITION AND ENFORCEMENT

Article 16 Scope of the Chapter

1. This Chapter applies to a decision rendered by a judicial or administrative authority in respect of a maintenance obligation. Such decision includes a settlement or agreement concluded before or approved by such an authority. A decision may include automatic adjustment by indexation and a requirement to pay arrears, retroactive maintenance or interest and a determination of costs or expenses.

2. If a decision does not relate solely to a maintenance obligation, the effect of this Chapter is limited to the parts of the decision which concern maintenance obligations.

3. For the purpose of paragraph 1, "administrative authority" means a public body whose decisions, under the law of the State where it is established –

a) may be made subject of an appeal to or review by a judicial authority; and

b) have the same force and effect as a decision of a judicial authority on the same matter.

[4. This Chapter also applies to authentic instruments and private agreements relating to a maintenance obligation in accordance with Article 26.]

5. The provisions of this Chapter apply to an application for recognition and enforcement made directly to a competent authority of the State addressed in accordance with Article 34.

Article 17 Bases for recognition and enforcement

1. A decision made in one Contracting State ("the State of origin") shall be recognised and enforced in other Contracting States if –

a) the respondent was habitually resident in the State of origin at the time proceedings were instituted;

b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;

c) the creditor was habitually resident in the State of origin at the time proceedings were instituted;

d) the child for whom maintenance was ordered was habitually resident in the State of origin at the time proceedings were instituted, provided that the respondent has lived with the child in that State or has resided in that State and provided support for the child there;

e) except in disputes relating to maintenance obligations in respect of children, there has been agreement to the jurisdiction in writing by the parties; or

f) the decision was made by an authority exercising jurisdiction on a matter of personal status or parental responsibility, unless that jurisdiction was based solely on the nationality of one of the parties.

2. A Contracting State may make a reservation, in accordance with Article 57, in respect of paragraph 1 *c)*, *e)* or *f)*.[4]

3. A Contracting State making a reservation under paragraph 2 shall recognise and enforce a decision if its law would in similar factual circumstances confer or would have conferred jurisdiction on its authorities to make such a decision.

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[4] Further consideration is being given by two delegations to the possibility of an amendment that would provide for a reservation in relation to Article 17(1) *d)*.

4. A Contracting State shall, if recognition of a decision is not possible as a result of a reservation under paragraph 2, and if the debtor is habitually resident in that State, take all appropriate measures to establish a decision. The preceding sentence does not apply to direct applications for recognition and enforcement under Article 16(5) unless a new application is made under Article 10(1) *d)*.

5. A decision in favour of a child under the age of 18 which cannot be recognised by virtue only of a reservation under Article 17(1) *c)*, *e)* or *f)* shall be accepted as establishing the eligibility of that child for maintenance in the requested State.

6. A decision shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.

Article 18 Severability and partial recognition and enforcement

1. If the State addressed is unable to recognise or enforce the whole of the decision it shall recognise or enforce any severable part of the decision which can be so recognised or enforced.

2. Partial recognition or enforcement of a decision can always be applied for.

Article 19 Grounds for refusing recognition and enforcement

Recognition and enforcement of a decision may be refused –

a) if recognition and enforcement of the decision is manifestly incompatible with the public policy ("*ordre public*") of the State addressed;

b) if the decision was obtained by fraud in connection with a matter of procedure;

c) if proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted;

d) if the decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed;

e) if the respondent had neither –

- *i)* proper notice of the proceedings and an opportunity to be heard, nor
- *ii)* proper notice of the decision and the opportunity to challenge it on fact and law; or

f) if the decision was made in violation of Article 15.

Article 20 Procedure on an application for recognition and enforcement[5]

1. Subject to the provisions of this Convention, the procedures for recognition and enforcement shall be governed by the law of the State addressed.

2. Where an application for recognition and enforcement of a decision has been made through Central Authorities in accordance with Chapter III, the requested Central Authority shall promptly either -

a) refer the application to the competent authority for registration of the decision for enforcement or for a declaration of enforceability, or

b) if it is the competent authority take such steps itself.

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[5] It was the view of some delegations that the Convention should not interfere more than necessary with the domestic law of Contracting States in respect of matters covered by this Article.

3. In the case of a direct application to a competent authority in the requested State in accordance with Article 16(5), that authority shall without delay declare the decision enforceable or register the decision for enforcement.

4. Nothing in paragraphs 2 and 3 shall prevent the use of simpler or more expeditious procedures.

5. A declaration or registration may be refused only for the reasons specified in [Articles 17 and 19] [19 *a)*]. At this stage neither the applicant nor the respondent is entitled to make any submissions.

6. The applicant and the respondent shall be promptly notified of the declaration or registration, or the refusal thereof, made under paragraphs 2 and 3 and may bring a challenge or appeal on fact and on a point of law.

7. A challenge or an appeal is to be lodged within 30 days of notification under paragraph 6. If the contesting party is not resident in the Contracting State in which the declaration or registration was made or refused, the challenge or appeal shall be lodged within 60 days of notification.

8. A challenge or appeal may be founded only on the following –

a) the grounds for refusing recognition and enforcement set out in Article 19;

b) the bases for recognition and enforcement under Article 17;

c) the authenticity, veracity or integrity of any document transmitted in accordance with Article 21(1) *a)*, *b)* or *d)*.

9. A challenge or an appeal by a respondent may also be founded on the fulfilment of the debt if the recognition and enforcement was only applied for in respect of payments that fell due in the past.

10. The applicant and the respondent shall be promptly notified of the decision following the challenge or the appeal.

11. Further appeal is possible only if permitted by the law of the State addressed.

Article 21 Documents

1. An application for recognition and enforcement under Article 20 shall be accompanied by the following –

a) a complete text of the decision;

b) a document stating that the decision is enforceable in the State of origin and, in the case of a decision by an administrative authority, a document stating that the requirements of Article 16(3) are met;

c) if the respondent did not appear in the proceedings in the State of origin, a document establishing that the conditions of Article 19 *e)* were met;

d) where necessary, a document showing the amount of any arrears and the date such amount was calculated;

e) where necessary, in the case of a decision providing for automatic adjustment by indexation, a document providing the information necessary to make the appropriate calculations;

f) where necessary, documentation concerning the entitlement of the applicant to legal assistance in the State of origin.

2. A Contracting State may by declaration under Article 58 specify circumstances in which it will accept an abstract or extract of the decision drawn up by the competent authority of the State of origin in lieu of a complete text of the decision; [in such a case a Contracting State may use the form set out in Annex ..].

3. Upon a challenge or appeal under Article 20(8) *c)* or upon request by the competent authority in the requested State, a complete copy of the document concerned, certified by the competent authority in the State of origin, shall be provided promptly -

a) by the Central Authority of the requesting State, where the application has been made in accordance with Chapter III;

b) by the applicant, where the application has been made directly to a competent authority of the State addressed.

Article 22 Procedure on an application for recognition

This Chapter shall apply *mutatis mutandis* to an application for recognition of a decision, save that the requirement of enforceability is replaced by the requirement that the decision has effect in the State of origin.

Article 23 Findings of fact

Any competent authority of the State addressed shall be bound by the findings of fact on which the authority of the State of origin based its jurisdiction.

Article 24 No review of the merits

There shall be no review by any competent authority of the State addressed of the merits of a decision.

Article 25 Physical presence of the child or applicant

[The physical presence of the child or applicant shall not be required in any proceedings in the requested State under this Chapter.]

[*Article 26 Authentic instruments and private agreements*

1. An authentic instrument or a private agreement made in a Contracting State shall be entitled to recognition and enforcement as a decision under this Chapter provided that it is enforceable as a decision in the State of origin.

2. An application for recognition and enforcement of an authentic instrument or a private agreement shall be accompanied by the following –

a) a complete text of the authentic instrument or of the private agreement

b) a document stating that the particular authentic instrument or private agreement is enforceable as a decision in the State of origin.

3. Recognition and enforcement of an authentic instrument or a private agreement may be refused if –

a) the recognition and enforcement is manifestly incompatible with the public policy of the requested State;

b) the authentic instrument or the private agreement was obtained by fraud or falsification;

c) the authentic instrument or the private agreement is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed.

4. The provisions of this Chapter, with the exception of Articles 17, 19, 20(8) and 21(1) and (2), shall apply *mutatis mutandis* to the recognition and enforcement of a private agreement or authentic instrument save that -

a) a declaration or registration in accordance with Article 20(5) may be refused only for the reasons specified in [paragraph 3] [paragraph 3 *a)*]; and

b) a challenge or appeal as referred to in Article 20(7) may be founded only on the following -

i) the grounds for refusing recognition and enforcement set out in Article 26(3);

ii) the authenticity, veracity or integrity of any document transmitted in accordance with Article 26(2).

5. Proceedings for recognition and enforcement of an authentic instrument or a private agreement shall be suspended if proceedings concerning its validity are pending before a competent authority.

6. A State may declare that applications for recognition and enforcement of authentic instruments and private agreements shall not be made directly to a competent authority.]

[Article 27 Reciprocal arrangements involving the use of provisional and confirmation orders

Where a decision is produced by the combined effect of a provisional order made in one State and an order by an authority in another State ("the confirming State") confirming the provisional order,

a) each of those States shall be deemed for the purposes of this Chapter to be a State of origin;

b) the requirements of Article 19 *e)* shall be met if the respondent had proper notice of the proceedings in the confirming State and an opportunity to oppose the confirmation of the provisional order; and

c) the requirement of Article 17(6) that a decision be enforceable in the State of origin shall be met if the decision is enforceable in the confirming State.]

CHAPTER VI – ENFORCEMENT BY THE REQUESTED STATE

Article 28 Enforcement under national law

1. Subject to the provisions of this Chapter, enforcement shall take place in accordance with the law of the State addressed.

2. Enforcement shall be prompt.

3. In the case of applications through Central Authorities, where a decision has been declared enforceable or registered for enforcement under Chapter V, enforcement shall proceed without the need for further action by the applicant.

4. Effect shall be given to any rules applicable in the State of origin of the decision relating to the duration of the maintenance obligation.

5. Any limitation on the period for which arrears may be enforced shall be determined either by the law of the State of origin of the decision or by the law of the State addressed, whichever provides for the longer limitation period.

Article 29 Non-discrimination

The requested State shall provide at least the same range of enforcement methods for cases under this Convention as are available in domestic cases.

Article 30 Enforcement measures

1. Contracting States shall make available in domestic law effective measures to enforce decisions under this Convention.

[2. Such measures may include –

a) wage withholding;

b) garnishment from bank accounts and other sources;

c) deductions from social security payments;

d) lien on or forced sale of property;

e) tax refund withholding;

f) withholding or attachment of pension benefits;

g) credit bureau reporting;

h) denial, suspension or revocation of various licenses (for example, driving licenses).]

Article 31 Transfer of funds

1. Contracting States are encouraged to promote, including by means of international agreements, the use of the most cost-effective and efficient methods available to transfer funds payable as maintenance.

2. A Contracting State, under whose law the transfer of funds is restricted, shall accord the highest priority to the transfer of funds payable under this Convention.

Article 32 Information concerning enforcement rules and procedures

Contracting States, at the time of becoming a Party to this Convention, shall provide the Permanent Bureau of the Hague Conference with a description of their enforcement rules and procedures, including any debtor protection rules. Such information shall be kept up-to-date by the Contracting States.

CHAPTER VII – PUBLIC BODIES

Article 33 Public bodies as applicants

1. For the purposes of applications for recognition and enforcement under Article 10(1), "creditor" includes a public body acting in place of an individual to whom maintenance is owed or one to which reimbursement is owed for benefits provided in lieu of maintenance.

2. The right of a public body to act in place of an individual to whom maintenance is owed or to seek reimbursement of benefits provided to the creditor in place of maintenance shall be governed by the law to which the body is subject.

3. A public body may seek recognition or claim enforcement of –

a) a decision rendered against a debtor on the application of a public body which claims payment of benefits provided in place of maintenance;

b) a decision rendered between a creditor and debtor to the extent of the benefits provided to the creditor in place of maintenance.

4. The public body seeking recognition or claiming enforcement of a decision shall upon request furnish any document necessary to establish its right under paragraph 2 and that benefits have been provided to the creditor.

CHAPTER VIII – GENERAL PROVISIONS

Article 34 Direct requests to competent authorities

1. This Convention does not exclude the possibility of recourse to such procedures as may be available under the national law of a Contracting State allowing a person (an applicant) to seize directly a competent authority of that State in a matter governed by this Convention including, subject to Article 15, for the purpose of having a maintenance decision established or modified.

2. However, the provisions of Chapters V, VI and VII shall apply in relation to a request for recognition and enforcement made directly to a competent authority in a Contracting State, save that –

a) the following is substituted for Article 20(2) –

"In the case of a direct application to a Competent Authority in the requested State, that authority shall without delay declare the decision enforceable or register the decision for enforcement.";

b) […].

Article 35 Protection of personal information

Personal information gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted.

Article 36 Confidentiality

Any authority processing personal information shall ensure its confidentiality in accordance with the law of its State.

Article 37 Non disclosure of information

1. An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person.

2. A determination to this effect made by one Central Authority shall be binding on another Central Authority.

3. Nothing in this provision shall impede the gathering and transmitting of information between authorities.

Article 38 No legalisation

No legalisation or similar formality may be required in the context of this Convention.

[*Article 39 Power of attorney*

The Central Authority of the requested State may require a power of attorney from the applicant only if it acts as legal representative in judicial proceedings or before other authorities.]

Article 40 Costs recovery

1. Recovery of any costs incurred in the application of this Convention shall not take precedence over the recovery of maintenance.

2. Nothing in this Convention shall prevent the recovery of costs from an unsuccessful party.

Article 41 Language requirements

1. Any application and related documents shall be in the original language, and shall be accompanied by a translation into an official language of the requested State or in another language which the requested State has indicated, by way of declaration in accordance with Article 58, it will accept, unless the competent authority of that State dispenses with translation.

2. A Contracting State which has more than one official language and cannot, for reasons of internal law, accept for the whole of its territory documents in one of those languages shall by declaration in accordance with Article 58 specify the language in which such documents or translations thereof shall be drawn up for submission in the specified parts of its territory.

3. Unless otherwise agreed by the Central Authorities, any other communications between such Authorities shall be in an official language of the requested State or in either English or French. However, a Contracting State may, by making a reservation in accordance with Article 57, object to the use of either French or English.

Article 42 Means and costs of translation

1. In case of applications made under Chapter III, the Central Authorities may agree in an individual case that the translation into an official language of the requested State may be made in the requested State from the original language or from any other agreed language. If no agreement can be reached and it is not possible for the requesting Central Authority to comply with the requirements of Article 41(1) and (2), then the application and related documents may be transmitted with translation into French or English[6] for further translation into an official language of the requested State.

2. The cost of translation arising from the application of the preceding paragraph shall be borne by the requesting State unless otherwise agreed by Central Authorities of the States concerned.

3. Notwithstanding Article 8, the requesting Central Authority may charge an applicant for the costs of translation of an application and related documents, except insofar as those costs may be covered by its system of legal assistance.

Article 43 Non-unified legal systems

1. In relation to a state in which two or more systems of law or sets of rules of law with regard to any matter dealt with in this convention apply in different territorial units –

a) any reference to the law or procedure of a State shall be construed as referring, where appropriate, to the law or procedure in force in the relevant territorial unit;

b) any reference to a decision established, recognised and / or enforced, and modified in that State shall be construed as referring, where appropriate, to a decision established, recognised and / or enforced, and modified in a territorial unit;

c) any reference to a judicial or administrative authority in that State shall be construed as referring, where appropriate, to a judicial or administrative authority in the relevant territorial unit;

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[6] One delegation expressed difficulties in accepting the words "into French or English".

d) any reference to competent authorities, public bodies, and other bodies of that State, other than Central Authorities, shall be construed as referring, where appropriate, to those authorised to act in the relevant territorial unit;

e) any reference to residence or habitual residence in that State shall be construed as referring, where appropriate, to residence or habitual residence in a territorial unit;

f) any reference to location of assets in that State shall be construed as referring, where appropriate, to the assets in the relevant territorial unit.

2. Notwithstanding the preceding paragraph, a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which involve solely such different territorial units.

3. A court in a territorial unit of a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to recognise or enforce a decision from another Contracting State solely because the decision has been recognised or enforced in another territorial unit of the same Contracting State under this Convention.

4. This Article shall not apply to a Regional Economic Integration Organisation.

[Article 44 Co-ordination with prior Hague Maintenance Conventions

In relations between the Contracting States, this Convention replaces the *Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations* and the *Hague Convention of 15 April 1958 concerning the recognition and enforcement of decisions* relating to maintenance obligations towards children in so far as their scope of application as between such States coincides with the scope of application of this Convention.

Article 45 Co-ordination of instruments and supplementary agreements

1. This Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by this Convention.

2. Any Contracting State may conclude with one or more Contracting States agreements, which contain provisions on matters governed by this Convention, with a view to improving the application of this Convention between or among themselves, provided that such agreements are consistent with the objects and purpose of this Convention and do not affect, in the relationship of such States with other Contracting States, the application of the provisions of this Convention. The States which have concluded such an agreement shall transmit a copy to the Depositary of the Convention.

3. The preceding paragraphs also apply to reciprocity schemes and uniform laws based on special ties between the States concerned.

4. This Convention shall not affect the application of the rules of a Regional Economic Integration Organisation that is a Party to this Convention, whether adopted before or after this Convention, as concerns the recognition or enforcement of decisions as between Member States of the Regional Economic Integration Organisation.

Article 46 Most effective rule

This Convention shall not prevent the application of an international instrument in force between the requesting State and the requested State or other law in force in the requested State that provides for –

a) broader bases for recognition of maintenance decisions, without prejudice to Article 19 *f)* of the Convention;

b) simplified or more expeditious procedures on an application for recognition or enforcement of maintenance decisions;

[*c)* more beneficial legal assistance]].

Article 47 Uniform interpretation

In the interpretation of this Convention, regard shall be had to its international character and to the need to promote uniformity in its application.

Article 48 Review of practical operation of the Convention

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention and to encourage the development of good practices under the Convention.

For the purpose of such review Contracting States shall co-operate with the Permanent Bureau in the gathering of information, including statistics and case law, concerning the practical operation of the Convention.

Article 49 Amendment of forms

1. The forms annexed to this Convention may be amended by a decision of a Special Commission convoked by the Secretary General of the Hague Conference on Private International Law to which all Contracting States and all Member States shall be invited. Notice of the proposal to amend the forms shall be included in the agenda for the meeting.

2. Amendments adopted by a majority of the Contracting States present and voting at the Special Commission shall come into force for all Contracting States on the first day of the seventh calendar month after the date of their communication by the Secretary General to all Contracting States.

3. During the period provided for by paragraph 2 any Contracting State may by notification in writing to the Ministry of Foreign Affairs of the Kingdom of the Netherlands make a reservation, in accordance with Article 57, with respect to the amendment. The State making such reservation shall until the reservation is withdrawn be treated as a State not a Party to the present Convention with respect to that amendment.

[*Article 50 Transitional provisions*

1. The Convention shall apply in every case where –

a) a request pursuant to Article 7 or an application pursuant to Chapter III has been received by the Central Authority of the requested State after the Convention has entered into force between the requesting State and the requested State;

b) a direct application for recognition and enforcement has been received by the competent Authority of the State addressed after the Convention has entered into force between the State of origin and the State addressed.

[2. The State addressed shall not be bound under this Convention to enforce a decision[, an authentic instrument or a private agreement] in respect of payments falling due prior to the entry into force of the Convention between the State of origin and the State addressed.]]

[Article 51 Provision of information concerning laws, procedures and services

1. A Contracting State, by the time its instrument of ratification or accession is deposited, shall provide the Permanent Bureau of the Hague Conference on Private International Law with –

a) a description of its laws and procedures concerning maintenance obligations;

b) a description of the measures it will take to meet the obligations under Article 6(2);

c) a description of how it will provide applicants with effective access to procedures, as required under Article 14(1) and (2);

d) a description of its enforcement rules and procedures, including any limitations on enforcement.

2. Contracting States may, in fulfilling their obligations under paragraph 1, utilise the Country Profile [Annex to the Convention]. The Country Profile may be amended from time to time by a Special Commission.

3. Information shall be kept up-to-date by the Contracting States.]

[CHAPTER IX – FINAL PROVISIONS

Article 52 Signature, ratification and accession

Option 1

1. The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Twenty-first Session and by the other States which participated in that Session.

2. It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

3. Any other State may accede to the Convention after it has entered into force in accordance with Article 55.

4. The instrument of accession shall be deposited with the depositary.

5. Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in Article 60. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

OR

5. The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession in accordance with Article 58. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited with depositary which shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

Option 2

1. This Convention is open for signature by all States.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. This Convention is open for accession by all States.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 53 Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that the Organisation has competence over matters governed by this Convention.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, notify the depositary in writing of the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Organisation shall promptly notify the depositary in writing of any changes to its competence as specified in the most recent notice given under this paragraph.

3. For the purposes of the entry into force of this Convention, any instrument deposited by a Regional Economic Integration Organisation shall not be counted unless the Regional Economic Integration Organisation declares in accordance with Article 54 that its Member States will not be Parties to this Convention.

4. Any reference to a "Contracting State" or "State" in this Convention applies equally to a Regional Economic Integration Organisation that is a Party to it, where appropriate.

Article 54 Accession by Regional Economic Integration Organisations

1. At the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation may declare in accordance with Article 58 that it exercises competence over all the matters governed by this Convention and that its Member States will not be Parties to this Convention but shall be bound by virtue of the signature, acceptance, approval or accession of the Organisation.

2. In the event that a declaration is made by a Regional Economic Integration Organisation in accordance with paragraph 1, any reference to a "Contracting State" or "State" in this Convention applies equally to the Member States of the Organisation, where appropriate.

Article 55 Entry into force

1. This Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third [/ second] instrument of ratification, acceptance, approval or accession referred to in Article 52.

2. Thereafter the Convention shall enter into force –

a) for each State or Regional Economic Integration Organisation referred to in Article 53 subsequently ratifying, accepting, approving or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

b) for a territorial unit to which the Convention has been extended in accordance with Article 56, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 56 Declarations with respect to non-unified legal systems

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare in accordance with Article 58 that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

3. If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

4. This Article shall not apply to a Regional Economic Integration Organisation.

Article 57 Reservations

1. Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 56(1), make one or more of the reservations provided for in Articles 17(2), 41(3) and 49(3). No other reservation shall be permitted.

2. Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the depositary.

3. The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

4. Reservations under this Article shall have no reciprocal effect.

Article 58 Declarations

1. Declarations referred to in Articles 2(2), 11(1) *g)* option 1, 14(3) and (7), 21(2), 41(1) and (2), 52(5) option 1, 54(1) and 56(1), may be made upon signature, ratification, acceptance, approval or accession or at any time thereafter, and may be modified or withdrawn at any time.

2. Declarations, modifications and withdrawals shall be notified to the depositary.

3. A declaration made at the time of signature, ratification, acceptance, approval or accession shall take effect simultaneously with the entry into force of this Convention for the State concerned.

4. A declaration made at a subsequent time, and any modification or withdrawal of a declaration, shall take effect on the first day of the month following the expiration of three months after the date on which the notification is received by the depositary.

Article 59 Denunciation

1. A Contracting State to the Convention may denounce it by a notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a Multi-unit State to which the Convention applies.

2. The denunciation shall take effect on the first day of the month following the expiration of twelve months after the date on which the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take effect upon the expiration of such longer period after the date on which the notification is received by the depositary.

Article 60 Notification

The depositary shall notify the Members of the Hague Conference on Private International Law, and other States and Regional Economic Integration Organisations which have signed, ratified, accepted, approved or acceded in accordance with Articles 52 and 53 of the following –

Option 1

a) the signatures, ratifications, acceptances and approvals referred to in Articles 52 and 53;

b) the accessions and objections raised to accessions referred to in Article 52(5) option 1;

OR

Option 2

a) + b) the signatures and ratifications, acceptances, approvals and accessions referred to in Articles 52 and 53;

c) the date on which the Convention enters into force in accordance with Article 55;

d) the declarations referred to in Articles 2(2), 11(1) *g)* option 1, 14(3) and (7), 21(2), 41(1) and (2), 52(5) option 1, 54(1) and 56(1);

e) the agreements referred to in Article 45(2);

f) the reservations referred to in Articles 17(2), 41(3) and 49(3), and the withdrawals referred to in Article 57(2);

g) the denunciations referred to in Article 59.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the ?? day of ??, 2007, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Twenty-first Session.]

ANNEXE / ANNEX 1

Transmittal Form under Article 12(2)

CONFIDENTIALITY AND PERSONAL INFORMATION PROTECTION NOTICE

Personal information gathered or transmitted shall be used only for the purposes for which they were gathered or transmitted. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.

☐ **Do not disclose information included in this transmittal form, attached applications and supporting documents which may lead to the location of any party or child in accordance with Article 37.**

1. Requesting Central Authority	**2. Contact person in requesting State**
	a. Language(s)
a. Address	**b. Address (if different)**
b. ☎	**c. ☎ (if different)**
c. Telefax	**d. Telefax (if different)**
d. Telex	**e. E-mail (if different)**
e. E-mail	**f. Reference number**

3. Requested Central Authority _____

Address _____

_____

4. Particulars of the applicant

a. Full name: _____

b. Date of birth: _____ **(dd/mm/yyyy)**

5. Particulars of the person(s) for whom maintenance is sought

a. ☐ **The person is the same as the applicant named above**

b. i. Full name: _____

Date of birth: _____ **(dd/mm/yyyy)**

ii. Full name: _____

Date of birth: _____ **(dd/mm/yyyy)**

iii. Full name: _____

Date of birth: _____ **(dd/mm/yyyy)**

6. Particulars of the debtor[1]

a. ☐ **The person is the same as the applicant named above**

b. Full name: _____

c. Date of birth: _____ **(dd/mm/yyyy)**

[1] According to Article 3 of the Convention "'debtor' means an individual who owes or who is alleged to owe maintenance".

7. This Transmittal Form concerns and is accompanied by an application under:

- ☐ **Article 10(1) *a)* – recognition or recognition and enforcement of a decision made in a Contracting State**
- ☐ **Article 10(1) *b)* – enforcement of a decision made [or recognised] in the requested State**
- ☐ **Article 10(1) *c)* – establishment of a decision in the requested State where there is no existing decision, including where necessary the establishment of parentage**
- ☐ **Article 10(1) *d)* – establishment of a decision in the requested State where recognition and enforcement of a decision is not possible or is refused**
- ☐ **Article 10(1) *e)* or (2) *a)* – modification of a decision made in a requested State to the extent permissible under the law of that State**
- ☐ **Article 10(1) *f)* or (2) *b)* – modification of a decision made in a State other than the requested State to the extent permissible under the law of the requested State**
- ☐ **Article 10(1) *g)* – recovery of arrears**

8. The following documents are enclosed together with the application:

a. For the purpose of an application under Article 10(1) *a)*, and:
In accordance with Article 21:
[☐ 1 Complete text of the decision] (Article 21 *a)*)
[OR]
[☐ 1 Abstract or extract of the decision drawn-up by the competent authority in the State of origin in the form set out in annex ... to the Convention] (Article 21 *a)*)
☐ 2 Document stating that the decision is enforceable [and, in the case of a decision by an administrative authority, that the requirements of Article 16(3) are met] (Article 21 *b)*)
☐ 3 document establishing that the respondent had proper notice of the proceedings and an opportunity to be heard, or had proper notice of the decision and the opportunity to challenge it, where the respondent did not enter an appearance in the proceedings in the State of origin (Article 21 *c)*)
[☐ 4 Document showing the amount of any arrears and the date such amount was calculated] (Article 21 *d)*)
[☐ 5 Document providing the information necessary to make appropriate calculations in case of a decision providing for automatic adjustment by indexation] (Article 21 *e)*)
☐ 6 Documentation concerning the entitlement of the applicant to legal assistance in the State of origin (Article 21 *f)*)

In accordance with Article 26(2):
☐ 7 Complete text of the authentic instrument or of the private agreement (Article 26(2) *a)*)
☐ 8 A document stating that the particular authentic instrument or private agreement is enforceable as a decision in the State of origin (Article 26(2) *b)*)

In accordance with Article 33(4), any document necessary to prove that:
☐ 9 The public body fulfils the conditions of Article 33(2)
☐ 10 Benefits have been provided for the maintenance creditor
☐ 11 Any other documents accompanying the application:
_____
_____

b. For the purpose of an application under Article 10(1) *b)*, *c)*, *d)*, *e)*, *f)*, and (2) *a)* or *b)* the necessary supporting documents in accordance with Article 11(3):
_____
_____

9. Other matters to which the requesting Central Authority draws attention for the consideration of the requested Central Authority:

_____

_____

☐ **The information contained in this transmittal form and accompanying application, and the enclosed documents, correspond to and are in conformity with the information and documents provided by the applicant to the requesting Central Authority.**

Date: _____

Name: _____
Representative of the requesting Central Authority