

26 | 27 October 2004 | The Hague | The Netherlands

International Conference on the Legal Aspects of an E-Commerce Transaction



Hcch

HAGUE CONFERENCE ON
PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE
DE DROIT INTERNATIONAL PRIVÉ



Icc
International Chamber of Commerce
The world business organization



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Legal Aspects of an E-Commerce Transaction

During the Dutch Presidency of the Council of the European Union, the Hague Conference on Private International Law (HCCH), the Dutch Government and the International Chamber of Commerce (ICC) will jointly host a conference in The Hague on 26 and 27 October 2004 on the legal issues raised by electronic commerce. The conference will focus on the areas of private law and private international law, but other areas such as international tax law will also be addressed. The conference aims at raising general awareness, including political awareness, of the vast range of legal questions raised by e-commerce, and at providing a forum for dialogue between lawmakers and business. It will take stock of results achieved, assess whether the current legal framework reflects business realities and try to identify unresolved issues.

The conference will focus on the example of one particular on-line transaction, e.g. a purchase of goods or services. According to the 'life-cycle' of this transaction, the e-commerce conference is divided into four half-days, which will each focus on a different phase: the pre-contractual phase, the conclusion of the contract, its performance and the post-contractual phase. The major questions in each phase will be presented by a moderator, after which several panellists will outline the results achieved or work in progress within their organisation, country or area of activities. Speakers will be representatives of intergovernmental organisations, government, academia and the business world. The panel presentations will be followed by a discussion, involving both the panel and participants from the floor. Each session will be closed by the moderator summing up results achieved.

The conference will take place at the Academy Building on the grounds of the Peace Palace, Carnegieplein 2, 2517 KJ The Hague. Conference languages will be English and French with simultaneous interpretation. This programme is also posted on the website of the Hague Conference on Private International Law at < www.hcch.net >, together with a possibility for on-line registration.

The conference is open to the public; a registration fee of 100 Euros per person will be charged. **Registration is only possible through our website at www.hcch.net accompanied by on-line payment.**

	DAY 1 TUESDAY 26 OCTOBER 2004
10.00	<p>Opening remarks: Hans van Loon, Secretary General of the Hague Conference on Private International Law</p> <p>Kees van der Waaij, Chairman of icc Nederland and of Unilever Nederland</p> <hr/>
10.30	<p>THE PRE-CONTRACTUAL PHASE</p> <p><i>Advertising, Competition, Infringement of Intellectual Property Rights</i></p> <p>Introduction and moderation: Paul Torremans, Professor of Law, University of Gent, Belgium, and University of Nottingham, United Kingdom</p> <ul style="list-style-type: none"> • Oliver Gray, Secretary General of EASA (European Advertising Standard Alliance) and Co-chair of icc Task Force on Code Revision, Belgium - Self-regulatory principles on marketing and advertising, which use the Internet, online services, electronic networks and the telephone. What are the legal pitfalls for companies engaged in online marketing? - icc Guidelines on Marketing and Advertising using Electronic Media • Erich Wiegand, Vice-Chair ESOMAR (World Association of Opinion and Marketing Research Professionals) Professional Standards Committee, Amsterdam, Netherlands - Market research activities in an online context. The difference between marketing and market research – which self-regulatory rules are in place, and how are they enforced? - icc/ESOMAR International Code of Marketing and Social Research Practice <hr/>
11.15	<p>Coffee break</p> <hr/>
11.30	<ul style="list-style-type: none"> • Mario Tenreiro, Head of Unit, JAI, European Commission - The law applicable to non-contractual relationships in an online context (Rome II – in particular unfair competition, tort and IP infringement) - Impact of the proposed Rome II Regulation on e-commerce • Lucinda Jones, Senior Legal Officer, World Intellectual Property Organization (WIPO) - WIPO update on intellectual property issues in the digital agenda

- **Jane Ginsburg, Professor of Law, Columbia University, New York, USA**
 - Copyright on the Internet
 - Example of national legislation – Digital Millennium Copyright Act
 - How does the relationship between national and international legislation influence e-commerce?
 - **Yuko Nishitani, Associate Professor of Law, Tohoku University, Japan**

Questions relating to copyright infringement on the Internet
The Japanese approach from a comparative perspective
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13.00

Lunch break

14.30

THE CONTRACTUAL PHASE

Negotiation and Conclusion of the Contract: Formal and Substantive Validity, Choice of Court and Choice of Law Clauses

Introduction and moderation: **Stefan Leible, Professor of Law, Friedrich-Schiller-Universität Jena, Germany**

- **José Angelo Estrella Faria, Legal Officer, UNCITRAL**

How should the legal validity of electronic messages be assessed:

 - UNCITRAL Model Law on Electronic Commerce 1996 (1998)
 - UNCITRAL Model Law on Electronic Signatures 2001
 - Work in Progress: Project of a Draft UN Convention on Electronic Contracting
 - **Ake Nilson, Chairman, Allgraf Ltd, United Kingdom**

What are the legal implications of moving contracting safely from a paper-based environment to an electronic environment?

 - Paction, the online sales contract application
 - icc Model Contracts
 - **Michael Hellner, Special Adviser, Ministry of Justice, and Associate Professor in Private International Law, Uppsala University, Sweden**

The EC Directive on electronic commerce and private international law
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16.00

Coffee break

16.15-
18.00

- **Simone van der Hof, Assistant Professor, Tilburg University, The Netherlands**

International online B2B contracts in Europe and the us – a Private International Law Perspective with a focus on the validity of choice of court and choice of law clauses

- **John Rothchild, Associate Professor of Law, Wayne State University Law School, Detroit, Michigan, USA**
 - us jurisdiction over e-commerce transactions: Recent case-law
 - UCITA (Uniform Computer Information Transactions Act) - legislation on software transactions
- **Evangelos Apostolou, Senior Counsel, Global Services, British Telecom Plc, United Kingdom**

B2B Online Contracting – The Legal challenges facing business

19.00

Reception offered by the Mayor of The Hague, Mr. Wim Deetman, at the Town Hall

DAY 2 | WEDNESDAY 27 OCTOBER 2004

9:30

THE PERFORMANCE PHASE

Panel A: Shipping of Goods, Delivery of Service, Online Performance

Introduction and moderation: **Mads Bryde Andersen, Professor of Law, University of Copenhagen, Denmark**

- **James Bryce Clark, Manager of Technical Standards Development, OASIS, USA**

Will widespread adoption of uniform rules and principles governing contractual relationships facilitate e-commerce?

- UNIDROIT Principles of International Commercial Contracts 2004

- **José Angelo Estrella Faria, Legal Officer, UNCITRAL CISG and e-commerce**

- **Jan Ramberg, Professor emeritus, Stockholm University, Sweden**

ICC's Incoterms has been a codified business standard since 1936
How have the technological changes influenced Incoterms, and is Incoterms 2000 geared for use in an electronic trading environment?

11:00

Coffee break

11:15

Panel B: Electronic Payment and Taxes

- **Marc Lacoursière, Assistant Professor, Université Laval, Québec, Canada**

Legal aspects of electronic payments

- **Anna Nordén, General Counsel, Tekki AB, Stockholm, Sweden**

Electronic invoicing in the light of the EU VAT Directive 2001/115/EC

- **William Craig, School of Law, Aberdeen, United Kingdom**

E-commerce and international taxation

12:30

Lunch break

14:00

THE POST-CONTRACTUAL PHASE AND DISPUTE RESOLUTION

Service Agreements, Guarantee Periods, Handling of Personal Data, Confidentiality, Spam, Product and Service Liability

Introduction and moderation: **Michael Geist, Professor of Law, University of Ottawa, Canada**

16.30-
17.00

- **Michael Donohue, OECD, Directorate for Science, Technology and Industry**
OECD's work on User Trust Online
- **Rinaldo Sali, Deputy Secretary General, Chamber of National and International Arbitration of Milan, Italy**
Crossing dispute resolution and information technology. The experience of RisolviOnline
- **Andrea Schulz, First Secretary, Hague Conference on Private International Law**
Work in Progress: Project of a Draft Hague Convention on Exclusive Choice of Court Agreements (The Judgments Project)
- **Alexander Matveev, Deputy Director, Ministry of Foreign Affairs, Russian Federation**
The Russian approach to the issue of e-commerce regulation

**Closing remarks by Laurens Jan Brinkhorst,
Minister of Economic Affairs of The Netherlands**

more information

The Hague by train: Trains stop at either Den Haag Centraal or Den Haag Hollands Spoor, and the Peace Palace is within easy reach of both stations by public transport or taxi.

The Hague by plane: Flight to Amsterdam Schiphol Airport (30-minute train journey to The Hague), or flight to Rotterdam Airport (30 minutes by taxi to the Peace Palace in The Hague).

For further information please contact:

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For updates of the programme, please consult www.hcch.net