



PROPOSED ARRANGEMENT WITH THE MAINLAND ON RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS ON MATRIMONIAL AND RELATED MATTERS

SUBMISSIONS

Introduction

1. In June 2016, the Department of Justice ("**DoJ**") released a consultation paper entitled "*Proposed Arrangement with the Mainland on Reciprocal Recognition and Enforcement of Judgments on Matrimonial and Related Matters*" ("**Consultation Paper**") for public views.
2. The current lack of a mechanism for reciprocal recognition and enforcement of matrimonial judgments between Hong Kong and the Mainland is a serious problem, to which a solution is long overdue.
3. The Consultation Paper reveals that there is a significant number of marriages registered in Hong Kong between residents of Hong Kong and those of the Mainland ("**cross-boundary marriages**"). Of the total marriages registered in Hong Kong from 2009 to 2014, the percentage of cross-boundary marriages has increased from 32% to 37%. In addition, the percentage of divorce cases filed in the Hong Kong Family Court from 2010 to 2014 in relation to marriages which took place in the Mainland ranged between 20% to 30% (§2 of the Consultation Paper).
4. The Consultation Paper also acknowledges that there is a pressing need in the society to pursue a solution to address the topical issue arising from cross-boundary marriages, ie. whether the order made by the Hong Kong court on divorce, maintenance and related matters can be recognized and enforced in the Mainland, and *vice versa* (§9).
5. In May 2011, we indicated our full support to the DoJ's proposal to engage in detailed discussion with its Mainland counterparts on the need to enter into an arrangement on reciprocal recognition and enforcement of judgments in matrimonial context¹.

¹ Legislative Council Paper (LC Paper No. CB(2) 1803/10-11(06))

6. After a lapse of five years, we are delighted to see that the DoJ has worked out a proposal for a framework on entering into an arrangement with the Mainland on reciprocal recognition and enforcement of judgments on matrimonial and related matters ("**Proposed Arrangement**").
7. We are of the view that the Proposed Arrangement, subject to our comments below, is necessary and should be implemented as a matter of priority.
8. The following is our comments in detail.

Comments

(I) The principal types of judgments to be covered in the Proposed Arrangement

Divorce decrees

9. Under the existing legal framework of Hong Kong, Mainland divorce orders may be recognized under Part IX of the Matrimonial Causes Ordinance (Cap.179) ("**MCO**"), subject to certain specified grounds on which recognition may be refused, including that the other party has received no notice of proceedings or has no opportunity to take part in the proceedings.
10. The Consultation Paper notes that the Zhuhai Intermediate People's Court has recognized a divorce decree granted in Hong Kong on the ground that the recognition does not contradict basic legal principles in the Mainland nor violate state sovereignty, security and public interest in the society (§12).
11. We agree that it remains uncertain if all the courts in the Mainland will adopt the same approach as Zhuhai Intermediate People's Court and therefore, we support that divorce decrees should be included in the Proposed Arrangement to remove uncertainty.
12. We are of the view that several principles under the Hague Convention on the Recognition of Divorces and Legal Representation (1970)² ("**Hague Divorce Convention**") can be considered for inclusion into the Proposed Arrangement. They include:
 - (a) The definition of "divorce" and "legal separation"³

² It is instructive to note that Hague Divorce Convention is applicable to Hong Kong, but not the Mainland. The Hague Divorce Convention does not establish direct uniform rules of jurisdiction in the Contracting States. It regulates jurisdiction indirectly, by providing that recognition of divorces or legal separations is conditional upon presence of certain links between the spouses, or either one of them, and the State of divorce or legal separation.

³ Article 1 of the Hague Divorce Convention

“Divorce” and “Legal Separation” are not defined under the Hague Divorce Convention, but commentators have interpreted this Article to reflect that the Hague Divorce Convention not only covers decrees of divorce or legal separation granted by a court, but also divorces or legal separations resulting from legislative, administrative or religious acts.

This Article and its interpretation would be relevant to the Proposed Arrangement given that many divorce certificates in the Mainland are obtained through relevant Mainland administrative authorities rather than through the courts.

(b) Jurisdictional basis⁴

The Hague Divorce Convention tries to reach a compromise between countries that use nationality as a basis for jurisdiction and those that use domicile. The expression of habitual residence is to be deemed to include domicile.

(c) Degree of supervision that may be exercised by the state where recognition is sought⁵

Section 61(2)(a) of MCO has similar effect that divorce decrees would not be recognized if sufficient steps are not taken to allow for one party to take part in the proceedings. The inclusion of this principle into the Proposed Arrangement could affirm Hong Kong's continued commitment to natural justice and the common law.

(d) The principle of public policy⁶

Having a public policy clause in the Proposed Arrangement would be relevant and necessary. It is compatible with the approach taken by the Zhuhai Intermediate People's Court as referred to in the Consultation Paper (§12).

(e) Suspension of proceedings

The case, *ML v YJ* (2010) 13 HKCFAR 794, illustrates complexities arising from parallel divorce proceedings in both the Mainland and Hong Kong and the risk of conflicting judgments.

The Proposed Arrangement should include a provision similar to this principle to reduce risk of conflict or incompatible decisions being made.

⁴ Articles 2 to 5 of the Hague Divorce Convention

⁵ There are two requirements laid down in Article 8 of the Hague Divorce Convention: (i) the taking of adequate steps and (ii) the affording of a sufficient opportunity. These two requirements are cumulative, not an alternative to the one another. If one of the two are not satisfied, the recognition might be refused.

⁶ Article 10 provides that Contracting State may refuse recognition where such recognition is manifestly incompatible with its public policy.

- (f) Relationship between the Hague Divorce Convention and other sources of law⁷

This principle sheds light on how to reconcile Hong Kong's common law system with the legal system in the Mainland.

13. The full text of the Hague Divorce Convention can be found at the **Annex 1**.

Maintenance orders

14. Neither the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188) ("**MOREO**") nor the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319) provides statutory bases for reciprocal enforcement of Mainland maintenance orders in Hong Kong.
15. We suggest that the reciprocal recognition and enforcement of maintenance orders can be modeled on the MOREO with modifications:

- (a) Definition of maintenance orders

Under MOREO, the present class of maintenance orders covers, inter alia, "*an order (including an affiliation order or order consequent upon an affiliation order) which provides for the periodical payment of sums of money towards the maintenance of any person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order was made, liable to maintain.*"

This class should be widened to include lump sum orders.

- (b) Power of Variation of Maintenance Orders

Sections 6 and 10 of the MOREO should be excluded. Any variation where appropriate should be determined by the court which made the original order.

Custody orders for the purpose of return of children in parental abduction cases

16. The Consultation Paper suggests "*... that the Proposed Arrangement should cover custody orders relating to children for the purpose of return of children in parental abduction cases. At common law, there is presently no rule regulating the recognition and enforcement of foreign custody orders. Nor is there any rule under*

⁷ Article 17 provides that the Hague Divorce Convention shall not prevent application in a Contracting State of rules of law more favourable to the recognition of foreign divorces and legal separations. This provision allows a party who seeks to have a divorce or legal separation recognized should rely on the common law where this is more favourable.

the present statutory regime of the HKSAR to regulate the recognition and enforcement of the same. Any order affecting children would only be made having regard to the best interests of a child as the first and paramount consideration” (§19).

17. It appears the proposal’s main concern is on children being wrongfully removed or retained by one parent in Mainland or *vice versa* whether or not there is any custody order or not. When parents are in dispute one parent may take their child away from the other parent across the border before the filing of an application for divorce. In that situation, there will not be an existing custody order for enforcement. We may or may not be referring to enforcement of custody orders of either side of the border. The main issue for cooperation between the two sides of the border is for the return of a child who has been wrongfully removed or retained by one parent against the best interest of the children, regardless of whether there is any existing custody order. On the other hand, it is accepted that there may be a need to enforce custody orders from either side of the border.

18. For the purpose of recognition and enforcement of custody orders, it would be of great assistance to look at the mechanism sets up in the European Union Regulation on conflict of law issues in family law between member states; in particular those related to divorce, child custody and international child abduction which is now called Brussels II Regulation (EC) No 2201/2003 (Revised) (“**BIIR**”). Article 1 of the BIIR provides that the regulation shall apply whatever the nature of the court or tribunal, in civil matters relating to, inter alia, the attribution, exercise, delegation, restriction or termination of parental responsibility which cover the rights of custody and rights of access. Article 23 of the BIIR provides that, a judgment relating to parental responsibility shall not be recognized:
 - (a) *if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought taking into account the best interests of the child;*
 - (b) *if it was given, except in case of urgency, without the child having been given an opportunity to be heard, in violation of fundamental principles of procedure of the Member State in which recognition is sought;*
 - (c) *where it was given in default of appearance if the person in default was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable that person to arrange for his or her defence unless it is determined that such person has accepted the judgment unequivocally;*
 - (d) *on the request of any person claiming that the judgment infringes his or her parental responsibility, if it was given without such person having been given an opportunity to be heard;*
 - (e) *if it is irreconcilable with a later judgment relating to parental responsibility given in the Member State in which recognition is sought;*
 - (f) *if it is irreconcilable with a later judgment relating to parental responsibility given in another Member State or in the non-Member State*

of the habitual residence of the child provided that the later judgment fulfils the conditions necessary for its recognition in the Member State in which recognition is sought; or

(g) if the procedure laid down in Article 56 has not been complied with⁸.

19. Currently, if a child is removed from Hong Kong to the Mainland, unless the parent who has abducted the child returns the child voluntarily, the only legal means to recover the child would be to initiate legal proceedings in the Mainland to which the child has been taken.
20. Where a child is abducted into Hong Kong from the Mainland, the return of the child is usually only achieved through either the abducting parent voluntarily returning the child, or by the left-behind parent initiating legal proceedings in Hong Kong. In such cases, the wardship jurisdiction of the court is usually invoked.
21. The major complication is that the Mainland and Hong Kong have different practices and law in dealing with custody issues. From our experience, it is not uncommon for the courts in the Mainland to issue orders that would grant a child's care and residence to each parent. However, the Hong Kong court very rarely splits siblings.
22. The Consultation Paper notes that the law in Mainland does not recognize parental abduction since both divorced parents in the Mainland would enjoy direct or indirect form of custody and guardianship of their children in the Mainland (§20).
23. To avoid any misunderstanding in Mainland, we suggest that if one parent takes a child away from the existing care of another parent, this incident can be referred as "wrongful removal and retention of the child" (不當遷移或扣留兒童) from their place of habitual residence (慣常居住), instead of child abduction (擄拐兒童). Thus, it is not necessary to use or adopt the word "abduction" in the Proposed Arrangement. The wrongful removal and retention of the child which can trigger a mechanism for the return of the child to his or her place of residence. For the purpose of cooperation across the border, "wrongful removal and retention of the child" can be defined and explained in the Proposed Arrangement.
24. We find the following concepts of The Hague Convention on the Civil Aspects of International Child Abduction (1980) ("Hague Abduction Convention")⁹ relevant for consideration:

⁸ Article 56 concerns a court having jurisdiction under Articles 8 to 15 contemplates the placement of a child in institutional care or with a foster family and where such placement is to take place in another Member State.

⁹ The Hague Abduction Convention, signed by 95 countries around the world since it was concluded in 1980, went into force in 1983. It sets out the rules and procedures with which to comply after one parent requests that his/her children under 16 who were abducted by the other parent be promptly returned to their country of habitual residence. It provides a summary remedy, ordering return of the child to his/her habitual residence without considering the merits of the custody/care arguments from each parent. Thus, the decision is not meant to be a final decision on the custody/care issues, but rather to return the child to the court of habitual residence which is best placed to make substantive decisions concerning the welfare of the child.

- (a) the concept of "habitual residence" (慣常居住).
- (b) the concept of "rights of custody" (管養權).
25. First, the concept of "**habitual residence**" (慣常居住) is regarded as the sole connecting factor in dealing with international parental child abduction cases under the Hague Abduction Convention. Habitual residence is not defined in the Hague Abduction Convention. It is to be decided as a matter of fact by reference to the relevant circumstances of the particular case.
26. In order to establish habitual residence, the residence must be "for a settled purpose continued for an appreciate time". The habitual residence of young children whose parents are living together is the same as the habitual residence of the parents themselves, and neither parent can change this without the consent of the other parent or an order of the court. However, a child whose parent has sole legal custody will have the same habitual residence as that parent¹⁰.
27. If the concept of habitual residence can be put into practice, children who have been wrongfully removed from the country of their habitual residence, could be returned to that country for the courts there to make substantive decisions concerning their welfare.
28. Second, the concept of "**rights of custody**" (管養權) includes rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence. The majority of the contracting states in the Hague Abduction Convention including the courts from England and Wales and Scotland decided that a parent who has access rights under domestic law with travel restrictions is to be taken to have custody rights within the context of the Hague Abduction Convention.¹¹
29. We have conducted a preliminary research on the Japanese approach in adopting the Hague Abduction Convention. The DoJ may wish to take note of the position of Japan as follows:
- (a) Japan's Family Code only recognizes sole custody or such rights vested in one parent.
- (b) Japan has been described as "a black hole from which no child ever returns"¹². But in April 2014, Japan is still able to ratify the Hague Abduction Convention.

¹⁰ Law Reform Commission of Hong Kong, Report on International Parental Child Abduction, April 2002

¹¹ *S v H* (abduction: access rights) [1997] 1 FLR 971; *AC v. AS* HCMP 4266/2001; *Re C* [1989] 1 FLR 403; *Re W*; *Re B* [1998] 2 FLR 146; *LCHY v CWF & Ors* (Child Retention: Habitual Residence) [2003] 3 HKC 508; and, *Re P* (Abduction: Consent) [2004] 2 FLR 1057

¹² Michelle Boykin, 'A Comparison of Japanese and Moroccan Approaches in Adopting The Hague Convention on the Civil Aspects of International Child Abduction', *Family Law Quarterly*, Vol.46, No.3 (Fall 2012) pp.451-469, 452

- (c) Hague Abduction Convention does not require the contracting states to adopt the joint custody. Adopting the joint custody is not the requisite condition to join the Hague Abduction Convention.
- (d) While Japan remains as the sole custody country, the Hague Abduction Convention works for both incoming cases as well as outgoing cases.
- (e) In incoming cases, as long as the test for parental child abduction is satisfied, to include the breach of custody rights of the left-behind parent, the Japanese court can entertain and determine the request for summary return of the child to his/her habitual residence. Article 3 of the Convention defines the wrongful removal/retention as follows:

"Article 3

*The removal or the retention of a child is to be considered wrongful where -
a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention..."*

- (f) In outgoing cases, when parents are still married and the Japanese law applies (note: according to law of conflict in Japan, foreign law may apply in some cases), they have joint custodial rights under the Japanese law. Therefore, if one of the parents removes or retains the child to the other contracting state without the consent of the other party or the court order, it is considered as the wrongful removal or retention according to the Article 3 of the Hague Abduction Convention and the left-behind parent may request the return of the child.
- (g) If parents are not married or already divorced, and Japanese law applies (note: according to law of conflict of Japan, foreign law may apply in some cases), only one parent may have the custodial rights unless the parent holding the parental authority gives the custodial rights to the other party. In this case, if the left-behind parent is the one who has the custodial rights, the removal or retention of the child by the abducting parent is considered as a wrongful removal or retention, and the abducting parent may request the return of the child.
- (h) In outgoing cases, whereby the parent left behind holding parental authority subsequently removes the child or retains the child overseas, the left-behind parent cannot invoke Hague return proceedings.
- (i) In practice, we are given to understand that Japanese family law practitioners would advise the clients (fathers in most of the cases as mothers are given sole parental authority in 80% of the divorce cases in Japan) to consider putting the

condition that the parent holding sole parental authority cannot remove the child out of Japan without the consent of the other parent (ie. right of veto) hoping that such an agreement would be considered as giving the parent without parental authority the kind of rights of custody within the Hague Abduction Convention context, and consequently any unilateral removal/retention without the consent of the other parent or the permission of the court would be considered to be wrongful removal/retention in the Hague Abduction Convention context. This question needs to be tested in the real cases and it is the court of the country where the child is removed to but not the Japanese court to interpret if the removal/retention in violation of such agreement would be wrongful.

- (j) There have been several cases where the children were returned from the other contracting states to Japan under the Hague Abduction Convention since the entry into force of Japan (outgoing cases).
30. We consider that although the position in the Mainland regarding the custody rights is not the same as common law jurisdictions, it should not prevent the Mainland from entering into the reciprocal agreement based on the same principle of the Hague Abduction Convention.
31. The full text of the Hague Abduction Convention can be found at the [Annex 2](#).

(II) Inclusion of "divorce certificate" obtained in the Mainland

32. The Consultation Paper reveals that the majority of divorces in the Mainland are obtained through the registration procedure instead of court proceedings. The total number of divorces registered with the administrative authorities in 2014 was about 2.957 million whereas the court processed about 0.679 million divorces (§27).
33. As discussed in paragraph 12 above, the Hague Divorce Convention could be interpreted to include divorces or legal separations resulting from legislative, administrative or religious acts. The proposed inclusion of "divorce certificate" obtained in the Mainland through registration with the relevant Mainland administrative authorities can be considered.

(III) Inclusion of orders for property adjustment

34. We agree that orders for property adjustment should *not* be covered under the Proposed Arrangement.

(IV) Inclusion of powers of variation of maintenance orders

35. We agree that the power to vary a maintenance order made by the original court should not be covered under the Proposed Arrangement.

(V) Whether other orders should be included

36. The Consultation Paper sets out 16 other judicial decisions on matrimonial decisions and related matters and seeks views on whether those judicial decisions should be included in the Proposed Arrangement.

37. We are of the view that at this stage, priority should be given to the following:

- (a) divorce decrees;
- (b) maintenance orders;
- (c) custody orders for the purpose of return of children in parental abduction cases; and
- (d) co-operation for the return of children who have been wrongfully removed or retained by another parent across the border.

(VI) Jurisdictional basis

38. As discussed in paragraph 12 above, we are of the view that the Hague Divorce Convention is relevant for consideration regarding the jurisdictional basis in which divorces granted by the courts in both jurisdictions and also divorces obtained through registration with the relevant Mainland administrative authorities shall be recognized in Hong Kong and the Mainland respectively under the Proposed Arrangement.

(VII) Level of courts to be covered

39. We consider that the Proposed Arrangement should cover judgments of the District Court or above in the Hong Kong, and in the Mainland, judgments given by the Supreme People's Court, Higher People's Courts, Intermediate People's Courts and Basic People's Courts should be covered.

(VIII) Finality

40. We are of the view that the common law approach on the finality is appropriate with regards to the enforcement of divorce decrees.

Concluding Remarks

41. Our comments on the specific issues are summarized as follows:
- (a) The Proposed Arrangement should include:
 - (i) divorce decrees;
 - (ii) maintenance orders;
 - (iii) custody orders for the purpose of return of children in parental abduction cases; and
 - (iv) cooperation for the return of children who have been wrongfully removed or retained by another parent across the border.
 - (b) The "divorce certificate" obtained through the registration procedure in the Mainland can be considered for inclusion in the Proposed Arrangement.
 - (c) Orders for property adjustment should not be included.
 - (d) Power of variation of maintenance orders by the courts in the place where the orders are sought to be enforced should not be included.
 - (e) The inclusion of other judicial decisions on matrimonial and related matters into the Proposed Arrangement can be considered at a later stage.
 - (f) The jurisdictional basis under the Hague Divorce Convention is relevant for consideration.
 - (g) The Proposed Arrangement should cover judgments of the District Court or above in Hong Kong, and in the Mainland, judgments given by the Supreme People's Court, Higher People's Courts, Intermediate People's Courts and Basic People's Courts should be covered.
 - (h) The common law approach on the finality is appropriate with regards to the enforcement of divorce decrees.
42. We understand that the DoJ will continue to discuss with the Mainland counterparts on issues concerning the Proposed Arrangement. We are keen to see that a timetable is set for the implementation of the Proposed Arrangement.
43. We would be pleased to continue our dialogue regarding this important matter and to assist with the details of the implementation of the Proposed Arrangement in Hong Kong.

The Law Society of Hong Kong
30 August 2016

Hague Convention on the Recognition of Divorces and Legal Separations (1970)

(Full Text)

Article 1

The present Convention shall apply to the recognition in one Contracting State of divorces and legal separations obtained in another Contracting State which follow judicial or other proceedings officially recognised in that State and which are legally effective there.

The Convention does not apply to findings of fault or to ancillary orders pronounced on the making of a decree of divorce or legal separation; in particular, it does not apply to orders relating to pecuniary obligations or to the custody of children.

Article 2

Such divorces and legal separations shall be recognised in all other Contracting States, subject to the remaining terms of this Convention, if, at the date of the institution of the proceedings in the State of the divorce or legal separation (hereinafter called "the State of origin") –

- (1) the respondent had his habitual residence there; or
- (2) the petitioner had his habitual residence there and one of the following further conditions was fulfilled –
 - a) such habitual residence had continued for not less than one year immediately prior to the institution of proceedings;
 - b) the spouses last habitually resided there together; or
- (3) both spouses were nationals of that State; or
- (4) the petitioner was a national of that State and one of the following further conditions was fulfilled –
 - a) the petitioner had his habitual residence there; or
 - b) he had habitually resided there for a continuous period of one year falling, at least in part, within the two years preceding the institution of the proceedings; or
- (5) the petitioner for divorce was a national of that State and both the following further conditions were fulfilled –
 - a) the petitioner was present in that State at the date of institution of the proceedings and
 - b) the spouses last habitually resided together in a State whose law, at the date of institution of the proceedings, did not provide for divorce.

Article 3

Where the State of origin uses the concept of domicile as a test of jurisdiction in matters of divorce or legal separation, the expression "habitual residence" in Article 2 shall be deemed to include domicile as the term is used in that State.

Nevertheless, the preceding paragraph shall not apply to the domicile of dependence of a wife.

Article 4

Where there has been a cross-petition, a divorce or legal separation following upon the petition or cross-petition shall be recognised if either falls within the terms of Articles 2 or 3.

Article 5

Where a legal separation complying with the terms of this Convention has been converted into a divorce in the State of origin, the recognition of the divorce shall not be refused for the reason that the conditions stated in Articles 2 or 3 were no longer fulfilled at the time of the institution of the divorce proceedings.

Article 6

Where the respondent has appeared in the proceedings, the authorities of the State in which recognition of a divorce or legal separation is sought shall be bound by the findings of fact on which jurisdiction was assumed.

The recognition of a divorce or legal separation shall not be refused –

- a) because the internal law of the State in which such recognition is sought would not allow divorce or, as the case may be, legal separation upon the same facts, or,
- b) because a law was applied other than that applicable under the rules of private international law of that State.

Without prejudice to such review as may be necessary for the application of other provisions of this Convention, the authorities of the State in which recognition of a divorce or legal separation is sought shall not examine the merits of the decision.

Article 7

Contracting States may refuse to recognise a divorce when, at the time it was obtained, both the parties were nationals of States which did not provide for divorce and of no other State.

Article 8

If, in the light of all the circumstances, adequate steps were not taken to give notice of the proceedings for a divorce or legal separation to the respondent, or if he was not afforded a sufficient opportunity to present his case, the divorce or legal separation may be refused recognition.

Article 9

Contracting States may refuse to recognise a divorce or legal separation if it is incompatible with a previous decision determining the matrimonial status of the spouses and that decision either was rendered in the State in which recognition is sought, or is recognised, or fulfils the conditions required for recognition, in that State.

Article 10

Contracting States may refuse to recognise a divorce or legal separation if such recognition is manifestly incompatible with their public policy ("ordre public").

Article 11

A State which is obliged to recognise a divorce under this Convention may not preclude either spouse from remarrying on the ground that the law of another State does not recognise that divorce.

Article 12

Proceedings for divorce or legal separation in any Contracting State may be suspended when proceedings

relating to the matrimonial status of either party to the marriage are pending in another Contracting State.

Article 13

In the application of this Convention to divorces or legal separations obtained or sought to be recognised in Contracting States having, in matters of divorce or legal separation, two or more legal systems applying in different territorial units –

- (1) any reference to the law of the State of origin shall be construed as referring to the law of the territory in which the divorce or separation was obtained;
- (2) any reference to the law of the State in which recognition is sought shall be construed as referring to the law of the forum; and
- (3) any reference to domicile or residence in the State of origin shall be construed as referring to domicile or residence in the territory in which the divorce or separation was obtained.

Article 14

For the purposes of Articles 2 and 3 where the State of origin has in matters of divorce or legal separation, two or more legal systems applying in different territorial units –

- (1) Article 2, sub-paragraph (3), shall apply where both spouses were nationals of the State of which the territorial unit where the divorce or legal separation was obtained forms a part, and that regardless of the habitual residence of the spouses;
- (2) Article 2, sub-paragraphs (4) and (5), shall apply where the petitioner was a national of the State of which the territorial unit where the divorce or legal separation was obtained forms a part.

Article 15

In relation to a Contracting State having, in matters of divorce or legal separation, two or more legal systems applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 16

When, for the purposes of this Convention, it is necessary to refer to the law of a State, whether or not it is a Contracting State, other than the State of origin or the State in which recognition is sought, and having in matters of divorce or legal separation two or more legal systems of territorial or personal application, reference shall be made to the system specified by the law of that State.

Article 17

This Convention shall not prevent the application in a Contracting State of rules of law more favourable to the recognition of foreign divorces and legal separations.

Article 18

This Convention shall not affect the operation of other conventions to which one or several Contracting States are or may in the future become Parties and which contain provisions relating to the subject matter of this Convention.

Contracting States, however, should refrain from concluding other conventions on the same matters incompatible with the terms of this Convention, unless for special reasons based on regional or other ties; and, notwithstanding the terms of such conventions, they undertake to recognise in accordance with this Convention divorces and legal separations granted in Contracting States which are not Parties to such other conventions.

Article 19

Contracting States may, not later than the time of ratification or accession, reserve the right –

(1) to refuse to recognise a divorce or legal separation between two spouses who, at the time of the divorce or legal separation, were nationals of the State in which recognition is sought, and of no other State, and a law other than that indicated by the rules of private international law of the State of recognition was applied, unless the result reached is the same as that which would have been reached by applying the law indicated by those rules;

(2) to refuse to recognise a divorce when, at the time it was obtained, both parties habitually resided in States which did not provide for divorce. A State which utilises the reservation stated in this paragraph may not refuse recognition by the application of Article 7.

Article 20

Contracting States whose law does not provide for divorce may, not later than the time of ratification or accession, reserve the right not to recognise a divorce if, at the date it was obtained, one of the spouse was a national of a State whose law did not provide for divorce. This reservation shall have effect only so long as the law of the State utilising it does not provide for divorce.

Article 21

Contracting States whose law does not provide for legal separation may, not later than the time of ratification or accession, reserve the right to refuse to recognise a legal separation when, at the time it was obtained, one of the spouses was a national of a Contracting State whose law did not provide for legal separation.

Article 22

Contracting States may, from time to time, declare that certain categories of persons having their nationality need not be considered their nationals for the purposes of this Convention.

Article 23

If a Contracting State has more than one legal system in matters of divorce or legal separation, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its legal systems or only to one or more of them, and may modify its declaration by submitting another declaration at anytime thereafter. These declarations shall be notified to the Ministry of Foreign Affairs of the Netherlands, and shall state expressly the legal systems to which the Convention applies. Contracting States may decline to recognise a divorce or legal separation if, at the date on which recognition is sought, the Convention is not applicable to the legal system under which the divorce or legal separation was obtained.

Article 24

This Convention applies regardless of the date on which the divorce or legal separation was obtained. Nevertheless a Contracting State may, not later than the time of ratification or accession, reserve the right not to apply this Convention to a divorce or to a legal separation obtained before the date on which, in relation to that State, the Convention comes into force.

Article 25

Any State may, not later than the moment of its ratification or accession, make one or more of the reservations mentioned in Articles 19, 20, 21 and 24 of the present Convention. No other reservation shall be permitted. Each Contracting State may also, when notifying an extension of the Convention in

accordance with Article 29, make one or more of the said reservations, with its effect limited to all or some of the territories mentioned in the extension. Each Contracting State may at any time withdraw a reservation it has made. Such a withdrawal shall be notified to the Ministry of Foreign Affairs of the Netherlands. Such a reservation shall cease to have effect on the sixtieth day after the notification referred to in the preceding paragraph.

Article 26

The present Convention shall be open for signature by the States represented at the Eleventh Session of the Hague Conference on Private International Law. It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 27

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 26. The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 28

Any State not represented at the Eleventh Session of the Hague Conference on Private International Law which is a Member of this Conference or of the United Nations or of a specialised agency of that Organisation, or a Party to the Statute of the International Court of Justice may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands. The Convention shall enter into force for a State acceding to it on the sixtieth day after the deposit of its instrument of accession. 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. Such a declaration shall be deposited at the Ministry of Foreign Affairs of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States. The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the sixtieth day after the deposit of the declaration of acceptance.

Article 29

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned. At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands. The extension will have effect only as regards the relations with such Contracting States as will have declared their acceptance of the extensions. Such a declaration shall be deposited at the Ministry of Foreign Affairs of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States. The extension will take effect in each case sixty days after the deposit of the declaration of acceptance.

Article 30

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands, at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.
The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 31

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following –

- a) the signatures and ratifications referred to in Article 26;
- b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27;
- c) the accessions referred to in Article 28 and the dates on which they take effect; d) the extensions referred to in Article 29 and the dates on which they take effect; e) the denunciations referred to in Article 30;
- f) the reservations and withdrawals referred to in Articles 19, 20, 21, 24 and 25;
- g) the declarations referred to in Articles 22, 23, 28 and 29.

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

Done at The Hague, on the first day of June, 1970, 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 Netherlands, and of which a certified copy shall be sent, through the diplomatic channel to each of the States represented at the Eleventh Session of the Hague Conference on Private International Law.

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

(Concluded 25 October 1980)

The States signatory to the present Convention,
Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect, and have agreed upon the following provisions –

CHAPTER I - SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are -

- a)* to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- b)* to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where -

- a)* it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
- b)* at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph *a)* above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention -

- a)* "rights of custody" shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;

b) "rights of access" shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II - CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

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

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures -

- a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- d) to exchange, where desirable, information relating to the social background of the child;
- e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organising or securing the effective exercise of rights of access;
- g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III - RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain -

- a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- b) where available, the date of birth of the child;
- c) the grounds on which the applicant's claim for return of the child is based;
- d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by -

- e) an authenticated copy of any relevant decision or agreement;
- f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the

State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;

g) any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that -

a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or

b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognised or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER IV - RIGHTS OF ACCESS

Article 21

An application to make arrangements for organising or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organising or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

CHAPTER V - GENERAL PROVISIONS

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

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

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

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

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorisation empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units -

- a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organising access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI - FINAL CLAUSES

Article 37

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 Fourteenth Session.

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.

Article 38

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

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. 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 at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare 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. Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

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 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

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.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force -

- (1) for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
- (2) for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following -

- (1) the signatures and ratifications, acceptances and approvals referred to in Article 37;
- (2) the accessions referred to in Article 38;
- (3) the date on which the Convention enters into force in accordance with Article 43;
- (4) the extensions referred to in Article 39;
- (5) the declarations referred to in Articles 38 and 40;
- (6) the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
- (7) the denunciations referred to in Article 44.

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

Done at The Hague, on the 25th day of October, 1980, 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 Fourteenth Session.