

**The Third Asia Pacific Regional Conference of  
the Hague Conference on Private International Law:**

**International Cooperation through  
Hague Conventions in the Asia Pacific**

**Hong Kong, China  
24-26 September 2008**

**CONCLUSIONS – 26 September 2008**

From 24 to 26 September 2008, participants from Australia, Bangladesh, Bhutan, Cambodia, China, Cook Islands, Fiji, India, Indonesia, Japan, Republic of Korea, Lao PDR, Malaysia, Nepal, Mongolia, Myanmar, New Zealand, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Timor-Leste, Tonga and Vietnam and academics, professionals, representatives from non-governmental organizations and members of the Permanent Bureau of the Hague Conference on Private International Law (the Hague Conference) met in Hong Kong, China, to discuss the relevance, implementation and operation of the Conventions of the Hague Conference (the Conventions) within the Asia Pacific Region (the Region) in the areas of family relations, legal cooperation, litigation, and finance law. The Conventions discussed included those on child abduction, intercountry adoption, protection of children, international recovery of child and family support, divorce, marriage, protection of adults, the service of documents, the taking of evidence, the abolition of legalisation for foreign public documents, choice of court agreements and holding of securities by intermediaries.

The Hong Kong Regional Conference (the Conference) gave special emphasis to the three most recent Hague Conventions (on Securities, Choice of Court and International Recovery of Child and Family Support) progressing the work of the *“Asia Pacific Regional Meeting on the Work of the Hague Conference on Private International Law”* held from 27 to 29 June 2007 in Sydney, Australia and *“An introduction to the Hague Conventions: Seminar on Fostering the Rule of Law in Cross-Border/Transnational Civil and Commercial Relations in the Asia Pacific”* held from 22 to 24 August 2005 in Kota Kinabalu, Sabah, Malaysia.

**Recognising that greater and enhanced judicial cooperation in the Region has the potential to assist increasing numbers of individuals and legal persons engaging in transnational activities, and to promote cross-border cooperation in the interests of families, individuals and businesses, the Conference agreed:**

- 1. that the Conference had provided a valuable opportunity for participants**
  - to gain a greater understanding of the implementation and operation of the Conventions in the context of different legal systems in the Region;**

- to appreciate the role of the Conventions as an important basis for furthering international cooperation among different legal systems;
  - to understand the role of the Permanent Bureau in providing support and assistance to States which request it; and
  - to appreciate the use of new technologies to improve the implementation and operation of the Conventions;
2. to continue working to further international cooperation among States in the Region in the areas covered by the Conventions;
  3. to pursue opportunities for States in the Region to consider becoming Contracting States to the Conventions as well as Members of the Hague Conference.

The Conference also agreed:

4. to encourage and to provide further opportunities for the use of regional and sub-regional groups to consider accession to the Conventions and attainment of membership of the Hague Conference;
5. to affirm the importance of training and information sessions for judges, lawyers, government officials and professionals including caseworkers in order to secure the effective implementation and operation of the Conventions, in cooperation with the Permanent Bureau's Centre for Judicial Studies and Technical Assistance, and the relevant national, regional and international bodies including non-governmental organizations;
6. that there is a need to provide several States, including non-Member States and non-Contracting Parties, with technical assistance and training to assist in the effective implementation and operation of the Conventions.

Specifically in relation to the following Conventions, the Conference acknowledged:

#### 2005 Choice of Court Convention

7. the benefits of predictability and legal certainty provided by the 2005 Hague Convention on Choice of Court Agreements to enhance judicial cooperation in civil or commercial matters in the Region in the interests of trade and investment;
8. the desirability of acceding to the 2005 Convention as an instrument to consolidate the international litigation system, in parallel to the international arbitration system, in particular the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards;
9. with interest that work towards accession is progressing in a number of States;

10. with interest that the 2005 Convention had already served as a reference for the arrangement between the Hong Kong Special Administrative Region and the courts of the mainland of the People's Republic of China;

#### **1965 Service Convention and 1970 Evidence Convention**

11. the benefits of these Conventions as essential tools for international judicial cooperation and cross-border litigation, in particular by providing effective and fast channels for service and taking of evidence abroad;
12. that increased awareness, mutual understanding and support for the different social, legal, judicial and administrative contexts of the States in the Region will further assist the smooth operation of these Conventions, thereby enhancing judicial cooperation amongst Contracting States in the Region;
13. the benefits and potential of greater use of technology in the implementation and operation of the Evidence Convention and in particular, the need to investigate the possibility of using video-link technology to facilitate the taking of evidence abroad under the Evidence Convention;

#### **1961 Apostille Convention**

14. the success of the Apostille Convention in creating a globally-recognised standard method of authenticating the origin of public documents executed in one Contracting State and to be produced in another Contracting State;
15. the benefits and potential of greater use of technology in the implementation and operation of the Apostille Convention and welcomed the progress of the electronic Apostille Pilot Program (e-APP) and encouraged technical exchange and assistance in the application of the e-APP, with a view to increasing the capacity of the States in the Region to issue e-Apostilles and maintain e-Registers of Apostilles;

#### **2006 Securities Convention**

16. the current lack of legal certainty and predictability as to the law governing the perfection, priority and other crucial aspects of the disposition of intermediated securities, and the resulting undesirable effects, such as friction costs and impediments to desirable reductions in credit and liquidity exposures;
17. that increased exposure to unsecured credit risk amplifies systemic risk and the potential proliferation of the number of bankruptcies and noted that these risks assumed particular force in light of the high interconnectivity of financial markets, and in times of financial instability;

18. the benefits of implementing the 2006 Hague Securities Convention as an instrument which provides a clear, straightforward, pragmatic and easily applicable solution to a technically complex issue.

The Conference :

#### **1993 Intercountry Adoption Convention**

19. reaffirmed the importance of the protection of children who are the subject of intercountry adoption and emphasized the links between the principles of the United Nations Convention on the Rights of the Child (UNCRC) and the 1993 Hague Convention on Intercountry Adoption, in particular that the best interests of the child is the primary consideration in intercountry adoptions;
20. recognized the challenges experienced by some Contracting States to the 1993 Hague Convention on Intercountry Adoption with the implementation and operation of the Convention and called for mutual assistance among Contracting States in the Region and technical assistance from the Permanent Bureau's Centre for Judicial Studies and Technical Assistance to overcome those challenges;

#### **1980 International Child Abduction Convention and 1996 International Child Protection Convention**

21. confirmed the value, among Contracting States in the Region, of the 1980 Child Abduction Convention in providing a firm structure to support family relationships;
22. affirmed the value of the 1996 Child Protection Convention in supplementing and supporting the 1980 Convention, and more generally in providing protection for vulnerable children in cross-border contexts;
23. recognized the need to provide several States with technical assistance and training to assist in the effective implementation and operation of these Conventions;
24. affirmed the benefits and potential of the use of new technologies in the implementation and operation of the Hague Children's Conventions, including the 2007 Hague Convention on International Recovery of Child and Family Support;

#### **2007 International Recovery of Child and Family Support Convention**

25. welcomed the conclusion of the new Hague Convention on Child Support and of its Protocol on the Law Applicable to Maintenance Obligations, and called upon States to consider the great benefits of the Convention for families and children in the Region, and worldwide;

#### **2000 International Protection of Adults Convention**

- 26. welcomed the coming into operation on 1 January 2009 of the 2000 Hague Convention on Protection of Adults and encouraged States in the Region to consider the value of the Convention in protecting vulnerable adults who move from one country to another;**

#### **1970 International Divorce Convention and 1978 International Marriage Convention**

- 27. invited States to consider the benefits of the 1970 Hague Convention on Divorce, the 1978 Hague Convention on Marriage in providing certainty and clarity in respect of these important matters of personal status.**

**The Conference further agreed:**

- 28. that in view of these benefits, regional meetings in the Asia Pacific should be held on a regular basis;**
- 29. to share the information and other benefits obtained from the Conference with the responsible national bodies, other relevant bodies and individuals in their jurisdictions.**

**Finally, the Conference also agreed :**

- 30. to encourage the Permanent Bureau, in cooperation with member States in the Region, to consider ways in which its presence and representation in the Region might be strengthened.**

The participants of the Conference noted its successful conduct and acknowledged that the organisation of the Department of Justice had been exceptional. They thanked both the Hong Kong SAR Government and the Permanent Bureau, for their generosity and efficiency in staging this event.