

UNIFORM LAW CONFERENCE OF CANADA

CIVIL SECTION

**ACTIVITIES AND PRIORITIES OF THE DEPARTMENT OF
JUSTICE
IN INTERNATIONAL PRIVATE LAW**

**REPORT OF THE DEPARTMENT OF JUSTICE CANADA
2014**

**Toronto, Ontario
August 10-14, 2014**

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Report of the Department of Justice Canada

August 2014

INTRODUCTION

[1] This report has been prepared for the August 10-14, 2014 meeting of the Uniform Law Conference of Canada (ULCC). It covers, among other things, the status of implementation of international private law instruments in Canadian jurisdictions; recent developments at the international level, including projects currently under negotiation; and the level of priority of the various activities carried out by the Department of Justice and provincial and territorial governments relating to international private law.

[2] The Department of Justice has devoted resources over the last year to developing the international and national legal framework in international private law. Progress has been made in terms of developing new international instruments. For example, the United Nations Commission on International Trade Law (UNCITRAL) adopted the *Convention on Transparency in Treaty-based Investor-State Arbitration*.

[3] Of particular note this year is the extension of application of the *Convention on International Interests in Mobile Equipment* and the *Protocol on Matters Specific to Aircraft Equipment* to Prince Edward Island and the Yukon. New Brunswick enacted legislation implementing these instruments on May 21, 2014. These developments are the last steps for a complete implementation of the two international instruments in Canadian law and when they come into force in all three jurisdictions, the Convention and Protocol will apply across Canada.

[4] Other progress has been made on the implementation front, including the ratification on November 1, 2013 of the ICSID Convention, an instrument aimed to facilitating the resolution of investment disputes. Finally, the *Convention Providing a Uniform Law on the Form of an International Will* applies to British Columbia since March 31, 2014.

[5] The first part of this report deals with the various Canadian players in international private law. The International Private Law Section of the Department of Justice (IPLS) is the central point for the policy development of international private law instruments as well as for the coordination of the Canadian implementation of these instruments. IPLS consults regularly with the provinces and territories, as well as with other interested federal departments, the private sector and the members of its Advisory Group on Private International Law (Advisory Group) to establish Canadian priorities and to decide on the position to be taken in the various forums.

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[6] The international and regional organizations involved in international private law and the projects in which Canada has participated are briefly described in the second part of the report. A list of the conventions, protocols and models laws in the area of international private law adopted by the Hague Conference on Private International Law (Hague Conference), UNCITRAL, Unidroit and the Organization of America States (OAS) is set out in Annex A.

[7] Finally, the third part of the report presents the activities of the Department of Justice in international private law under the following themes:

- International Commercial Law;
- Judicial Cooperation and Enforcement of Judgments;
- Family Law; and
- Protection of Property.

[8] Projects are ranked with respect to their level of priority (high, medium, low). To evaluate priority, IPLS, in collaboration with the Advisory Group, considers the following: the benefits for Canada; stakeholders' interests; the project's overall costs and benefits; and the challenges and difficulties related to implementation. Key projects are displayed in similar order in the Overview Chart of International Private Law Priorities (Annex B) which provides an outline of IPLS's activities in the field of international private law. A Canadian status chart of existing instruments is found in Annex C. A provisional list of international meetings for the coming year is provided in Annex D.

I. NATIONAL ACTORS

[9] As matters dealing with international private law most often fall within provincial jurisdiction, federal-provincial-territorial cooperation is essential to real progress in this area. Consultations with the legal and business community, as well as with other private groups, are useful where the work of IPLS relates closely to their interests. Contact information for IPLS staff is set out in Annex E.

A. ADVISORY GROUP ON PRIVATE INTERNATIONAL LAW

[10] The Advisory Group on Private International Law is composed of five provincial representatives (representing British Columbia, the Prairie Provinces, Ontario, Québec and the Atlantic Provinces) and federal representatives from the Department of Justice and the Department of Foreign Affairs, Trade and Development Canada (DFATDC). The Advisory Group provides the Department of Justice with continuing advice on the provincial aspects

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of the international private law projects in which Canada is involved. Since the last report, the Group has met twice, in December 2013 and June 2014.

B. FEDERAL-PROVINCIAL-TERRITORIAL COOPERATION

[11] In addition to federal-provincial cooperation through the Advisory Group, the Department of Justice also communicates directly with provincial and territorial authorities to obtain their official views on international instruments. These exchanges take place through written and oral communications among federal-provincial-territorial authorities as well as with the presentation of reports to the ULCC and to the Civil Justice Committee.

1. Uniform Law Conference of Canada

[12] Instituted in 1918 with a view to harmonizing Canadian laws, the Uniform Law Conference of Canada today participates actively in the implementation of international conventions and other international private law instruments such as model laws. From the perspective of the Department of Justice, the ULCC constitutes the key mechanism for facilitating implementation of international private law instruments via the development of uniform implementing legislation. This year again, the Department participated in the ULCC's activities and allocated resources to that end.

2. Civil Justice Committee

[13] The Civil Justice Committee was first established as an ad hoc committee of government officials in the late 1980s to assist in the preparation for and follow-up to the meetings of federal, provincial and territorial Deputy Ministers responsible for Justice matters. Its efforts in the adoption of implementing legislation recommended by the ULCC are particularly productive.

C. PRIVATE SECTOR AND LAW FACULTIES

[14] The Department of Justice consults the Canadian Bar Association (CBA) and Canadian academics and stakeholders regularly on many projects including the future work programmes of the Hague Conference, UNCITRAL and Unidroit.

II. INTERNATIONAL ORGANIZATIONS AND RELATIONS

A. THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

[15] The Hague Conference on Private International Law, which held its first session in 1893, has 76 Members, including Canada since 1968. Its objective is to work toward the progressive unification of rules of private international law. The Permanent Bureau, the Secretariat of the Conference, is responsible for administration and supporting research. The traditional Conference's working cycle is approximately four years, at the end of which it convenes its Members to a Diplomatic Conference for the adoption of a convention. A recent focus on the provision of assistance to implementing states has changed this cycle, but members continue to meet in Special Commissions and to participate in experts meetings. The Hague Conference's website includes a list of finalized instruments, their status and practical information on Conventions. The address is: www.hcch.net.

[16] Over the last year, Canada participated in the activities of the Hague Conference including: a meeting of the Special Commission on the Practical Operation of the Service, Evidence and Access to Justice Conventions (May 20-23, 2014), the second meeting of the Working Group preparing proposals for a possible instrument on the recognition and enforcement of foreign judgments, including jurisdictional filters (February 24-28, 2014), and the meeting of the Council on General Affairs and Policy of the Conference, held from April 8-10, 2014.

[17] The Conference's work programme is reviewed each year at a meeting of the Council on General Affairs and Policy. At this year's meeting, the Council directed that the Draft Commentary on the Draft Hague Principles on Choice of Law in International Contracts be finalized by the Experts' Group and that the Draft Principles and Commentary then be submitted to Members for approval. The Council also noted the significant progress made by the Working Group on the judgments project and asked that it continue its work in the coming year. In regard to the private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements, the Council noted the support expressed by a considerable number of Members for the establishment of an Experts Group but decided to defer the final determination of the matter to its meeting in 2015. Finally, the Council invited the Permanent Bureau to continue exploratory work on the recognition and enforcement of foreign civil protection orders and on the recognition and enforcement of voluntary agreements in the area of family law. The conclusions of the Council's meeting and the documents relating to the current work of the organization are available on the Hague Conference website.

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[18] Canada is party to four Hague Conference conventions in private international law: the *Convention on the Service Abroad of Judicial and Extra-judicial Documents in Civil or Commercial Matters* (1965, in force for Canada 89/05/01); the *Convention on the Civil Aspects of International Child Abduction* (1980, in force for Canada 83/12/01); the *Convention on the Law Applicable to Trusts and on their Recognition* (1985, in force for Canada 93/01/01); and the *Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* (1993, in force for Canada 97/04/01). Not all jurisdictions in Canada have implemented all four Conventions.

B. UNCITRAL

[19] The United Nations Commission on International Trade Law (UNCITRAL), the core legal body within the UN system in the field of international trade law, aims to further the progressive harmonisation and unification of the law of international trade. To reach this goal, the Commission uses various instruments: it has prepared 11 conventions, 8 model laws, uniform rules and a number of legal and legislative guides. Further information on UNCITRAL, including instruments adopted by the Commission, status of ratifications and adoption of instruments, and working group reports, can be found at: www.uncitral.org

[20] UNCITRAL comprises 60 Member States representing various geographic regions and the principal economic systems and legal traditions of the world. Members are elected for a six-year term by the General Assembly. Other States and international governmental and non-governmental organizations may participate as observers in meetings of the Commission and its working groups, which operate by consensus. Canada was a member of UNCITRAL from 1989 to 1995, participated actively as an observer from 1995 to 2001, and has been a member of the Commission since 2001 with the current term ending in 2019.

[21] Over the last year, Canada participated in the following UNCITRAL activities : the 22nd session of Working Group I (Micro, Small and Medium-sized Enterprises) in February 2014; the 59th and 60th sessions of Working Group II (Arbitration) in September 2013 and February 2014; the 28th and 29th sessions of Working Group III (Online Dispute Resolution) in November 2013 and March 2014; the 44th and 45th sessions of Working Group V (Insolvency) in December 2013 and April 2014; the 24th and 25th sessions of Working Group VI (Security Interests) in December 2013 and April 2014; and the 47th session of the Commission from July 7-18, 2014.

[22] At its 47th session, the Commission finalized and adopted the *Convention on Transparency for treaty-based investor-State arbitration*. Furthermore, the Commission mandated Working Group II to review the UNCITRAL Notes on Organizing Arbitral Proceedings. The Notes are designed to assist arbitration practitioners by providing an

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annotated list of matters on which an arbitral tribunal may wish to formulate decisions during the course of arbitral proceedings. They were adopted in 1996 and need updating. The Commission anticipates that this work will be completed for the July 2015 meeting of the Commission. Canada submitted a proposal for future work in the field of electronic commerce dealing with contractual issues affecting the provision of cloud computing services. The proposal was accepted by the Commission and Working Group IV will consider this issue when work is completed on a Model Law for Electronic Transferable Records. The Commission, on the basis of the conclusions of the colloquium on international insolvency held in December 2013, mandated Working Group V to review the recognition and enforcement of insolvency-related judgments.

[23] In the coming year, the UNCITRAL Secretariat will hold a colloquium on the *UN Convention on Contracts for the International Sale of Goods* to mark its 35th anniversary and consider possible topics for future work.

[24] The Commission's current work will continue on: procedural rules for online dispute resolution for cross-border electronic transactions including in the business-to-business and business-to-consumer contexts; a legislative text on electronic transferable records; simplified incorporation procedures for micro, small and medium-sized enterprises and a model law on secured transactions. Information on UNCITRAL's current work programme is available on its website.

[25] Canada is party to two United Nations conventions relating to international commercial law: the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (1958, in force for Canada 86/08/10) and the *United Nations Convention on Contracts for the International Sale of Goods* (1980, in force for Canada 92/05/01).

[26] Legislation implementing the UNCITRAL Model Law on International Commercial Arbitration (1985) has been enacted in Canada and the ULCC made recommendations for the adoption of the 2006 revisions to the Model Law. Legislation based on the UNCITRAL Model Law on Cross-Border Insolvency (1997) has been adopted federally and legislation drawing on the UNCITRAL Model Law on Electronic Commerce (1996) has been adopted in all Canadian jurisdictions.

C. UNIDROIT

[27] The International Institute for the Unification of Private Law, known as Unidroit, was created in 1926 as an organ of the League of Nations. Since 1940 it has been an independent inter-governmental organization located in Rome. There are 63 Member States, including Canada since 1968. Unidroit's mandate differs from that of the Hague Conference as it aims to harmonize and co-ordinate the private law of its Member States, rather than their private

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international law rules. Since its creation, the Institute has drafted more than 70 studies, model laws and conventions on various private law subjects including sales, international leasing and factoring, transport, security interests, franchising and cultural property. Further information on Unidroit including instruments adopted by the Institute, status of ratifications and adoption can be found at: www.unidroit.org.

[28] In practice, the Governing Council is the principal decision-making body of the organization. It sets up the work programme, provides advice on the organization's draft budget and is responsible for the Secretariat's activities. Unidroit's 2011-2013 Work Programme was completed by December 2013. The 2014-2016 Work Programme foresees the completion of a legal guide on contract farming and the preparation of model rules of civil procedures tailored for the European context. In addition, preliminary work on a fourth Protocol (on agricultural, mining and construction equipment) to the *Convention on International Interests in Mobile Equipment* is underway. Finally, the Unidroit Governing Council decided to take steps towards a fourth edition of the Unidroit Principles for International Commercial Contracts for the purpose of formulating specific proposals for issues raised by long-term contracts. Details on the 2014-2016 Work Programme are available on Unidroit's website.

[29] Canada is party to only two of the thirteen Unidroit conventions and to one protocol, the *Convention Providing a Uniform Law on the Form of an International Will* (1973, in force for Canada since 78/02/09) and the *Convention on International Interests in Mobile Equipment* and its related *Aircraft Protocol* (2001, in force for Canada since 13/04/01).

D. WORLD BANK

[30] The World Bank's role in the field of international private law stems in part from the creation of the International Centre for the Settlement of Investment Disputes (ICSID) under the *Convention for the Settlement of Investment Disputes between States and Nationals of Other States* (1965). Canada ratified this Convention in November 2013. It came into force for Canada on December 1, 2013. Further information on the World Bank and the *ICSID Convention* can be found at: www.worldbank.org.

E. COMMONWEALTH

[31] When Member States of the organization have an interest, the Commonwealth Secretariat supports work on the development of private international law instruments. In that context, Canada has supported work that began in 2005 aimed at draft model legislation on the recognition and enforcement of foreign judgments.

F. THE ORGANIZATION OF AMERICAN STATES

[32] The Organization of American States, with 35 Member States, provides a forum for political, economic, social and cultural cooperation in the Americas, through its Inter-American Juridical Committee, which serves as an advisory body to the OAS. The Committee recommends the convening of specialized legal conferences, such as the Inter-American Conference on Private International Law (CIDIP) which meets approximately every four or five years to deal with technical matters and further cooperation in the area of international private law. Further information on the OAS including instruments adopted by the Organization, status of ratifications and adoption can be found at: www.oas.org.

[33] Canada is not party to any of the OAS conventions in international private law, and had only observer status for the first four CIDIP meetings. The most recent CIDIP adopted the Model Registry Regulations under the Model Inter-American Law on Secured Transactions. CIDIP is not expected to complete work begun in consumer protection.

G. BILATERAL RELATIONS

[34] Canada is party to bilateral treaties on judicial cooperation (service and taking of evidence abroad) with 25 States. These treaties are available on DFATDC's website at www.accord-treaty.gc.ca (under the headings "Bilateral" and "Judicial Co-operation (civil and commercial)").

[35] Canada has a bilateral convention with the United Kingdom, the *Canada-UK Convention on the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters* (1984) which is in force for all provinces and territories except Québec.

III. PRIORITIES OF THE DEPARTMENT OF JUSTICE IN INTERNATIONAL PRIVATE LAW

A. INTERNATIONAL COMMERCIAL LAW

1. HIGH PRIORITIES

a. Online Dispute Resolution (UNCITRAL)

[36] In 2010, the Commission mandated a working group to undertake work in the field of online dispute resolution (ODR) relating to cross-border electronic commerce

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transactions, including business-to-business and business-to-consumer transactions. So far, the Working Group reviewed draft procedural rules for ODR.

[37] During the November 2012 meeting, the Working Group agreed that it would draft ODR Rules that can accommodate both countries that allow consumers to bind themselves pre-dispute to binding arbitration decisions (Track I) and those that do not (Track II) in an attempt to accommodate policy differences in consumer protection legislation. Under Track I, a pre-dispute arbitration clause would be entered into between the seller and the buyer (business or consumer) at the time of purchase. Three phases of ODR would be subsequently offered: negotiation, facilitated settlement and arbitration. It is envisaged that the resulting arbitration award could be enforced under the 1958 *New York Convention on the Recognition and Enforcement of Foreign Arbitral Award*. Track II, on the other hand, would require an agreement between the seller and buyer to engage in the following ODR proceedings: negotiation, facilitated settlement and a possibility of a “recommendation” by a neutral. Parties would agree to bind themselves by the recommendation. It remains to be determined at what time parties would agree to engage in ODR proceedings or to be bound by the “recommendation”.

[38] The Working Group focussed on the Track II approach during the November 2013 and March 2014 sessions where the Working Group completed a first review of the Track II rules

[39] *Action required in Canada:* Continue consultations with stakeholders and preparation for the next Working Group session.

2. MEDIUM PRIORITIES

a. Choice of law in international contracts (Hague Conference)

[40] In 2009, the Hague Conference set up a Working Group to begin developing a non-binding instrument on choice of law in international commercial contracts. The Working Group met three times and developed principles on choice of law in this area and a document outlining the policy choices made in developing the draft articles of the Principles.

[41] The Hague Principles on the Choice of Law in International Contracts were adopted by a Special Commission of the Hague Conference in November 2012. At the 2013 meeting of the Council on General Affairs of the Conference, the Council requested that a draft Commentary on the Principles be prepared and circulated to all Members and

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Observers for comments. It also requested that the draft Commentary then be finalized and presented to the Council, together with the Principles, in 2014.

[42] The Principles and draft commentary were presented to the Council on General Affairs in April 2014. The Council discussed 3 issues: the finalisation of the French version of the Principles and Commentary, which still require work; the procedure for final approval by Council; and possible changes to the text of the Commentary. It was agreed to undertake a written approval procedure leading to the endorsement of the Principles and Commentary by Council if no objection is raised by the end of August. Justice Canada is waiting for comments from other States before consulting to provide Canada's comments.

[43] *Action required in Canada:* Consult interested parties in Canada on the draft texts.

b. Simplified business incorporation regime for micro, small and medium-sized enterprises (UNCITRAL)

[44] At its 46th session (2013), the Commission mandated Working Group I to undertake work to reduce the legal obstacles faced by micro, small and medium-sized enterprises (MSMEs) throughout their life cycle, in particular, in developing economies. The Commission also agreed that such work should start with a focus on the legal questions surrounding the simplification of incorporation procedures.

[45] The Working Group commenced its work in February 2014. After discussing the various aspects of simplified incorporation and business registration, the Working Group agreed that a template containing contextual elements and experiences linked to its mandate would be prepared by the Secretariat before its next session (November 17-21, 2014). The Working Group also agreed that the template could include provisions on limited liability, legal personality, registration and proof of existence of companies, incorporation procedures, capital requirements or alternatives thereto, accounting and transparency, and liability of those who represent the company. The template will provide the basis for the drafting of a possible model law on simplified incorporation and registration, but will not discard the possibility of the Working Group preparing other types of legal instruments.

[46] *Action required in Canada:* Monitor the work and continue consultations with stakeholders.

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c. Draft Model Law on Electronic Transferable Records (UNCITRAL)

[47] At its 44th session in 2011, the Commission mandated Working Group IV to undertake work in the field of electronic transferable records (ETRs). Among the better-known types of ETRs are the electronic equivalents of bills of lading, warehouse receipts, and bills of exchange.

[48] The Working Group is currently examining draft provisions on electronic transferable records prepared by the UNCITRAL Secretariat. The provisions seek to establish functional equivalents to paper-based transferable documents or instruments. In that sense, the work is building on previous work by UNCITRAL, including the 1996 Model Law on Electronic Commerce. Of note are the new provisions on third-party service providers which require them to make available means to enable a relying party to verify information from an electronic transferable record.

[49] The Commission expects the Model Law on ETRs to be completed by summer 2015.

[50] *Action required in Canada:* Monitor the project and continue consultations with stakeholders in preparation for the next meeting of the Commission.

d. Draft Model Law on Secured Transactions (UNCITRAL)

[51] UNCITRAL has already prepared a Legislative Guide on Secured Transactions and a Supplement on Security Rights in Intellectual Property. Continuing its work in the area of secured transactions, UNCITRAL adopted the Guide on the Implementation of a Security Rights Registry at its 46th session. This text addresses in detail the legal framework for the establishment and operation of a registry of security rights in movable assets based on the security interests regime envisaged in the Legislative Guide, which is broadly consistent with Canadian law.

[52] The Working Group is now continuing the development of a Model Law on Secured Transactions and held its 25th session from March 31-April 4, 2014. In terms of the overall scope and structure of the Model Law, four decisions were made at the session which, in combination, will make the Model Law much more detailed than was initially conceived:

- The registration provisions, drawn from both the Legislative Guide recommendations and the Registry Guide, were split into two sets: the first “substantive” set to go into the Model Law itself; the second “technical/operational” set to go into a Model Regulation to accompany the

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Model Law. States enacting legislation based on the models may need to modify this structure to reflect their own approaches to subsidiary legislation.

- All the asset-specific articles have been left in the Model Law - i.e. not just receivables, but also intellectual property, negotiable instruments, documents of title, money, bank accounts, and non-intermediated securities.
- The third party effectiveness and priority rules relating to specialized registries were also kept in.
- Finally, for acquisition financing, it was decided to incorporate only the unitary approach in the Model Law, with a note explaining that States that wished to adopt the non-unitary approach instead should consult the Legislative Guide for drafting suggestions. Although maintaining the non-unitary approach was a key point for the Legislative Guide negotiations, its exclusion from the Model Law was supported by the Working Group because: (1) incorporating only the unitary approach would result in a shorter and simpler text; and (2) providing alternative chapters reflecting both the unitary and non-unitary approach would make the structure of the Model Law confusing for potential enacting states.

[53] The next session of the Working Group will take place in December 2014.

[54] *Action required in Canada:* Continue providing input on the draft Model Law to ensure consistency with the Legislative Guide.

e. Convention on the Settlement of Investment Disputes between States and Nationals of Other States (World Bank)

[55] The *ICSID Convention*, prepared under the auspices of the World Bank in 1965, establishes rules and a venue for conciliation or arbitration of international investment disputes. The Convention applies to disputes between States and nationals (investors) of other States party. It is a unique mechanism as awards rendered by ICSID are enforceable in any country party to the Convention as if they were final court judgements of that country.

[56] Provisions on ICSID arbitration are commonly found in free-trade agreements such as the North-American Free-Trade Agreement (NAFTA) and foreign investment protection agreements (FIPAs). These agreements constitute advance consents by governments to submit investment disputes to ICSID arbitration. ICSID arbitration clauses could also be included in specific agreements between foreign investors and a state or province.

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[57] The vast majority of our trading partners have ratified the ICSID Convention (there are 150 States party to the Convention). The federal government has been actively promoting the Convention in recent years in order to encourage provinces and territories to pass legislation implementing the Convention. Implementing legislation has also been adopted in Ontario (1999), Saskatchewan (2006), British Columbia (2006), Newfoundland and Labrador (2006), Nunavut (2006), the Northwest Territories (2009) and Alberta (2013).

[58] Canada ratified the *ICSID Convention* on November 1, 2013. It came into force for Canada on December 1, 2013.

[59] *Action required in Canada:* Continue to seek provincial and territorial implementation of the Convention.

f. Draft Legal Guide on Contract Farming (Unidroit)

[60] Unidroit is preparing a legal guide on contract farming. This work is coordinated with interested international organizations, in particular, the Food and Agriculture Organization of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the World Food Programme (WFP). The World Farmers' Organization has also expressed support for the preparation of an instrument capable of promoting lasting commercial partnerships between farmers and agro-business companies which could become an important source of reference for support programmes designed to assist farmers and national public authorities.

[61] Key aspects of the draft Guide are: to ensure contract farming is adapted to the agricultural cycle, that it takes into account the financing needs of small producers, including more stable market access and streams of revenue, and increase overall food production capacity. It is envisaged that the draft Guide will be finalized in the course of 2014.

[62] The next meeting of the Working Group on Contract Farming is scheduled to take place in Rome from 17-21 November 2014.

[63] *Action required in Canada:* Disseminate information about the draft legal guide to interested parties.

3. LOW PRIORITIES

a. *Convention on International Interests in Mobile Equipment and Aircraft Protocol* (Unidroit/ICAO)

[64] The Convention provides a framework for the creation of international interests in mobile equipment and an international registry in which these interests can be registered. Each type of mobile equipment, in this case aircraft equipment, is the subject of a specific protocol under the Convention.

[65] The Convention entered into force internationally on March 1, 2006 when the Aircraft Protocol entered into force. The Convention and Protocol apply in 55 States, including Canada's major trading partners such as the United States of America, China and the European Union.

[66] The ULCC adopted a uniform implementing act in 2002. Canadian jurisdictions were asked to consider adopting legislation to implement the Convention and Aircraft Protocol. Legislation implementing the Convention and Aircraft Protocol has been adopted at the federal level as well as in all the provinces and territories.

[67] Canada ratified the Convention and Protocol in December 2012 and both instruments came into force for Canada on April 1, 2013. At that time, the application of the Convention and Protocol was extended to Ontario, Nova Scotia, Alberta, Newfoundland and Labrador, Québec, Saskatchewan, the Northwest Territories, British Columbia, Nunavut and Manitoba. Extension to Prince Edward Island and Yukon took place on March 28, 2014 and will take effect on October 1, 2014.

[68] *Action required in Canada:* Monitor the application of the Convention and Protocol in Canada and extend the application of the instruments to New Brunswick upon request.

b. *Convention on the Use of Electronic Communications in International Contracts* (UNCITRAL) – ULCC Uniform Electronic Communications Convention Implementation Act

[69] The 2005 *Convention on Electronic Communications* (ECC) recognizes the equivalence of paper and electronic communications in the conclusion and performance of contracts between parties located in different States. The Convention applies to business-to-business transactions.

[70] In addition to providing substantive rules on the use of electronic communications for parties to international contracts, the Convention can also be applied to existing international conventions, such as the *United Nations Convention on Contracts for the*

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International Sale of Goods to which Canada is a party. States wishing to do so can have existing conventions interpreted under the ECC with respect to any electronic communications to which they apply. The ECC applies on its face to several UN conventions, and contracting states can extend it to any others they wish. Canadian provinces and territories would be in a position to apply the Convention on Electronic Communications to conventions that have been implemented in their jurisdiction. The Convention contains a federal state clause that would allow Canada to consider becoming a party even if the Convention were not implemented in all Canadian jurisdictions.

[71] The Convention entered into force internationally on March 1, 2013 and currently has five States party.

[72] The ULCC adopted in 2011 the Uniform Electronic Communications Convention Implementation Act.

[73] *Action required in Canada:* Consider adopting legislation based on the Uniform Act.

c. Model Law on International Commercial Conciliation (UNCITRAL) – ULCC Uniform Act on International Commercial Mediation

[74] In 2002, UNCITRAL adopted the Model Law on International Commercial Conciliation prepared by Working Group II (Arbitration). In 2005, the ULCC adopted the Uniform Act on International Commercial Mediation, which enacts the Model Law. To date, both Nova Scotia and Ontario have enacted the uniform act.

[75] *Action required in Canada:* Continue to promote adoption of the uniform act.

d. Convention on the Law Applicable to Securities Held by Intermediaries (Hague Conference)

[76] The *Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary* was adopted by the Hague Conference in 2002. Its objective is to enable financial market participants in the global market to ascertain readily and unequivocally the law that will govern the proprietary aspects of transfers and pledges of interests in respect of securities held through indirect holding systems. The Convention is thus intended to provide greater certainty and predictability on limited, but crucial, aspects of such transactions. Canada actively participated in the negotiations relating to this Convention.

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[77] A pre-implementation report prepared by Me Michel Deschamps of McCarthy Tétrault was presented at the ULCC in 2011. The Report included an overview of the Convention, a comparison between the Convention and Canadian law and an analysis of available declarations in the Canadian context. In 2013, a ULCC Working Group concluded that given Canada's economic ties with the United States, it would be desirable to consider if any developments take place in the United States before considering a Canadian ratification. The United States signed the Convention in 2006 and has been preparing for ratification.

[78] Mauritius and Switzerland ratified the Convention in 2009, but the Convention is still not in force internationally.

[79] *Action required in Canada:* Monitor international developments and report to the ULCC as appropriate.

e. *Convention on the Assignment of Receivables in International Trade* (UNCITRAL)

[80] The *Convention on the Assignment of Receivables in International Trade* is intended to facilitate financing by removing uncertainty encountered in various legal systems as to recognition and effects of assignments in which the assignor, the assignee and the debtor are not in the same country. The Convention was adopted by UNCITRAL in 2001 but has not yet come into force internationally.

[81] In 2007, the ULCC adopted the Uniform Assignment of Receivables in International Trade Act, developed in the context of a joint working group of the ULCC, the National Conference of Commissioners on Uniform State Laws (NCCUSL) and the Mexican Uniform Law Centre with a view to coordinating implementation of the Convention in all three NAFTA countries.

[82] In 2006, the United States and the European Union indicated that they were considering a possible ratification of the Convention. There have been no developments since then.

[83] *Action required in Canada:* Monitor developments towards ratification in the United States and in other countries.

f. *Conventions on the Limitation Period in the International Sale of Goods and Protocol* (UNCITRAL)

[84] These Conventions, which entered into force August 1, 1988, grew out of the work of UNCITRAL to unify international sales law. There are 29 States party to the Limitation Convention of 1974, and 22 States party to the *Amended Limitation*

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Convention, including, in both cases, our NAFTA trade partners. Canada is not party to these Conventions.

[85] The Conventions establish a uniform prescription period of four years for commercial litigation. They dovetail with the *United Nations Convention on Contracts for the International Sale of Goods* (Vienna, 1980), which is in force for all of Canada. There is substantial similarity between the three Conventions, in particular the articles setting out the sphere of application, declarations and reservations, the federal State clause, and the final clauses.

[86] In 1975-76, the ULCC adopted a uniform act to implement the 1974 Limitation Convention. In August 1998, it adopted the Uniform International Sales Conventions Act, which would implement the *United Nations Convention on Contracts for the International Sale of Goods* and the *Conventions on the Limitation Period in the International Sale of Goods*. Since then, in the context of consultations and discussions within Canada, it has been suggested that having a simpler approach to the implementation of the Limitation Conventions could perhaps facilitate moving forward.

[87] *Action required in Canada*: Follow-up when appropriate on the consultations with provinces and territories and determine whether a simpler approach to implementation would be advisable. Consider the adoption of federal implementing legislation, which would apply to contracts for the sale of goods involving the Crown in right of Canada.

g. Principles regarding the enforceability of close-out netting provisions (Unidroit)

[88] In 2010, a project to draft principles regarding the enforceability of close-out netting provisions was proposed to Unidroit and included in the 2011-2013 Work Programme as a high priority. In 2011, a Study Group comprised of renowned experts in the law of international financial markets was asked to prepare draft principles for Unidroit. The Study Group met in April 2011, in September 2011 and in March 2012 and then referred the draft to a Committee of Governmental Experts. The Committee considered the draft at a first meeting in October 2012 and finalized the draft text of the Principles at its second and last meeting in March 2013.

[89] The Principles on the Operation of Close-out Netting Provisions and accompanying comments were adopted by the Unidroit Governing Council in May 2013.

[90] The aim of these Principles is to provide detailed guidance to national legislators seeking to revise or introduce national legislation relevant to the functioning of close-out netting, especially in cross-jurisdictional situations. They are designed to improve the

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enforceability of close-out netting in order to provide a sound basis, in commercial and insolvency law terms, for risk management and mitigation by financial institutions and for the application of regulatory policies in the international context.

[91] *Action required in Canada:* Monitor international developments in this area.

h. Model Legislative Provisions on Interim Measures in Support of Arbitration (UNCITRAL) - Uniform International Commercial Arbitration Act (ULCC)

[92] The UNCITRAL Model Law on International Commercial Arbitration was adopted in 1985. It provides a framework for all stages of the arbitral process from the arbitration agreement to the recognition and enforcement of the arbitral award. At the time, the Model Law reflected worldwide consensus on key aspects of international arbitration practice having been accepted by States of all regions of the world and of the different legal or economic systems.

[93] In 1986, the ULCC developed the Uniform International Commercial Arbitration Act (Uniform ICAA) to enact the UNCITRAL Model Law and to implement the 1958 *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (New York Convention). The Uniform ICAA was subsequently adopted by all Canadian jurisdictions, some with minor adjustments.

[94] In 2006, a revised version of the Model Law on International Commercial Arbitration was adopted by UNCITRAL. It includes a comprehensive legal framework on interim measures and modernizes the form requirement to better conform with current international contract practices. The ULCC Working Group on International Commercial Arbitration concluded its work in 2013 and recommended that the 2006 amendments be adopted by Canadian jurisdictions. The 2013 ULCC Uniform International Commercial Arbitration Act is recommended for adoption by enacting jurisdictions.

[95] *Action required in Canada:* Consider adopting legislation based on the revised Uniform Act.

B. JUDICIAL COOPERATION AND ENFORCEMENT OF JUDGMENTS

1. HIGH PRIORITIES

a. Judgments Project (Hague Conference)

[96] In 2011, the Council on General Affairs and Policy agreed that an Experts' Group should be established to assess the possible merits of resuming the Judgments Project. In

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2012, the Council agreed that work on the Judgments Project should proceed and established a Working Group to prepare proposals on the recognition and enforcement of judgments, including jurisdictional filters, and requested the Experts' Group to further study and discuss the desirability and feasibility of making provisions in relation to jurisdiction.

[97] In 2013, work stalled over different views as to how to proceed on jurisdictional rules. An agreement was finally reached in the fall 2013 to proceed for the moment on rules for recognition and enforcement. Although Canada had not participated in the first meetings on the new Judgments Project, we attended the second Working Group meeting in February 2014. The meeting was productive, reaching provisional agreement on many of the easier issues, but the more difficult issues remain, including issues of indirect jurisdiction.

[98] Two further Working Group meetings are scheduled before the next meeting of the Council on General Affairs and Policy: October 2014 and February 2015. Intersessional work is also being organized.

[99] *Action required in Canada:* Consult in preparation for the October Working Group meeting.

b. Draft Model Law on Recognition and Enforcement of Foreign Judgments (Commonwealth)

[100] Ministers of the Commonwealth considered a draft Model Law on the Recognition and Enforcement of Foreign Judgments at their last meeting in May. There were some discussions about a text that would be narrower in scope, but it was quickly rejected and the proposed text is largely in line with the Uniform Law Conference of Canada's Uniform Enforcement of Foreign Judgments Act (UEFJA). Ministers further noted that additional discussions were necessary on some provisions of the draft Model Law.

[101] The draft Model Law also draws on the work of the Hague Conference on Private International Law and of law reform agencies in a number of Commonwealth countries. It proposes changes to the current intra-Commonwealth arrangements and could be used by governments as a basis for reform of their legislation in this area. The draft Model Law adopts the simple procedure of registering judgments which requires a filing of the judgment in the court of the state as opposed to an application for recognition and enforcement before the court. The bases on which the foreign court is considered as having jurisdiction are not identical to Canadian law, but are not entirely inconsistent with it. It does not refer to the

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real and substantial connection between the defendant and the subject matter, but it lists traditional grounds found in common law jurisdictions.

[102] Ministers mandated the Secretariat to take appropriate steps to produce a final draft of the Model Law for consideration at the next meeting of Senior Officials.

[103] *Action required in Canada:* Consult stakeholders as further details of the process are known.

c. Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Hague Conference)

[104] This Convention, to which Canada is not party, has 107 Contracting States. The Convention requires each Contracting State to exempt public documents originating from other Contracting States which are produced in its territory from the requirement of authentication through diplomatic or consular legalisation. Under the Convention, the only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of a certificate known as an “Apostille certificate” issued by the competent authority of the State from which the document emanates.

[105] Contracting States are required to record the Apostille certificates in an index or register. This allows for verification of their origin, which reduces the risk that fraudulent documents will be accepted. A number of Contracting States have implemented or are considering implementing online electronic registries. Compared to the traditional paper-based registries, these allow persons to whom certificates are presented to verify their origin independently and more efficiently. It is expected that the use of technology will further reduce the risk of fraud.

[106] The Authentication and Service of Documents Section at DFATDC authenticates signatures or seals on approximately 300,000 Canadian public documents annually. These are then legalised in Canada by the diplomatic or consular officials of the country where they will be produced. These legalised documents are used abroad for a multitude of purposes such as conducting business, working, studying, getting married, claiming an inheritance and adopting a child. Being able to obtain an Apostille certificate would make it easier to use Canadian public documents in the 107 Contracting States.

[107] *Action required in Canada:* Continue to work to resolve implementation issues.

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d. *Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (Hague Conference)*

[108] This Convention is currently in force in 68 States, including Canada. It is aimed at facilitating the service of judicial and extrajudicial documents from one Contracting State to another through Central Authorities. The Convention also allows other methods of service, such as postal service, where the Contracting State in which service is made did not object to their use.

[109] In Canada, a Central Authority has been designated in each province and territory. At the federal level, the Criminal, Security and Diplomatic Law Division of DFATDC serves as the Central Authority and is monitoring the application of the Convention with the input from provincial and territorial Central Authorities.

[110] Implementation of the Convention is not uniform across all Canadian jurisdictions. Some court decisions appear to diverge from the application and interpretation of the Convention that has been agreed to by Contracting States. This situation puts Canada at risk of not meeting its international obligations under the Convention. A ULCC Working Group is drafting uniform rules on service of Canadian judicial documents in other Contracting states.

[111] The provinces and territories currently charge a \$50 service fee for foreign judicial and extrajudicial documents through their Central Authorities. This fee was set in 1988 when Canada joined the Convention. Jurisdictions were consulted on raising the fee to \$100. Given the positive feedback, it was decided to increase the fee as proposed starting August 18, 2014.

[112] In addition, Canada participated in the meeting of the Special Commission on the practical operation of the Convention in May 2014. The Special Commission discussed operational issues with respect to the Convention and updates to the Practical Handbook on the Operation of the Convention. The Permanent Bureau of the Conference and a drafting committee composed of experts from several Contracting States, including Canada, are reviewing the Handbook. The new edition of the Handbook will be published in 2015 with the approval of the Council on General Affairs and Policy of the Conference. The conclusions and recommendations of the Special Commission are available on the Conference's website.

[113] *Action required in Canada:* Continue to provide information and respond to requests regarding the application of the Convention. Coordinate the exchange of information among Canadian Central Authorities so as to harmonize Canadian practice. Review the implementation of the Convention in Canada.

2. LOW PRIORITIES

a. *Convention on Choice of Court Agreements (Hague Conference)*

[114] The 2005 *Hague Convention on Choice of Court Agreements* sets rules for when a court must take jurisdiction or refuse to do so where commercial parties have entered into an exclusive choice of court agreement. The Convention also provides for the recognition and enforcement of resulting judgments, with an option for Contracting States to agree on a reciprocal basis to recognize judgments based on a choice of court agreement that was not exclusive.

[115] The Convention is not in force. It is expected to come into force in 2015, when the European Union is expected to ratify. The Convention may come into force sooner if another State ratifies or accedes to it before the EU.

[116] From a Canadian perspective, it is worth noting that the Convention:

- 1) provides a mechanism to exclude certain subject matters that a State can specify;
- 2) allows a court recognizing a foreign judgment to reduce the foreign award in certain circumstances;
- 3) excludes maritime law, competition law and intellectual property from its primary scope; and
- 4) ensures that courts in Canada retain the power to transfer cases.

[117] Although the Convention is quite limited in scope and allows Contracting States to create broad exceptions, the frequency of choice of court agreements in commercial matters could make the Convention a useful tool for commercial parties doing business across borders.

[118] Two reports reviewing the Convention in light of Canadian civil and common law were presented to the ULCC in 2007 and remain useful sources for jurisdictions considering implementing it. A uniform act was adopted in 2010 by the ULCC.

[119] *Action required in Canada:* Coordinate federal implementation studies and promote implementation in provinces and territories.

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C. FAMILY LAW

1. HIGH PRIORITIES

a. Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague Conference)

[120] The *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* was adopted in 2007 by the Hague Conference. It establishes a complete maintenance recovery co-operation system and sets out rules for establishing, recognizing and enforcing maintenance decisions across borders. The text of the Convention, the Explanatory Report and the practical operation documents are available on the Hague Conference's website.

[121] The 2007 Convention has been in force since January 1, 2013. The United States was the first State to sign the Convention on November 23, 2007 and is currently working on its implementation. The European Union (EU) signed the Convention on April 9, 2014. The Convention will enter into force for the European Union and its member states on August 1, 2014. On that date, 31 States will be party to the Convention.

[122] In 2008, the Coordinating Committee of Senior Officials-Family Justice (CCSO-FJ) set up a working group to examine the implementation of the 2007 Convention. The working group report will include the federal, common law and civil law legal and operational analysis of the Convention, a summary of recommendations, an executive summary as well as background research. A sub-group was also established to examine implementation issues and the interplay between provincial laws, the Divorce Act (sections 18 and 19) and the Convention and to make recommendations.

[123] In September 2013, the draft federal and common law analyses were completed. The draft civil law analysis was completed in April 2014. Discussions are currently underway with the PT Maintenance Enforcement Programs working group (MEPS) who are responsible for enforcing support orders and agreements. The working group will finalize the FPT Report after it has completed an examination of the civil law analysis and concluded the discussions with the MEPS.

[124] *Action required in Canada:* Finalize the FPT report. Present the report to CCSO-Family Justice and request that a working group be tasked with drafting uniform implementation legislation for the Convention.

b. *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (Hague Conference)*

[125] The *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* was adopted in 1996. It creates global legal solutions to address the problems raised by the increase in the trans-border movement of children in need of protection. The Convention establishes private international law rules that apply to a variety of matters including: parental responsibility, as well as its delegation; rights of custody; guardianship, curatorship and analogous institutions; the designation and functions of any person or body having charge of the child's person or property, or representing or assisting the child; the placement of the child in a foster family or in institutional care, or the provision of care by kafala or an analogous institution; the supervision by a public authority of the care of a child by any person having charge of the child; and the administration, conservation or disposal of the child's property. The Convention came into force internationally in January 2002 and is currently in force in 40 countries.

[126] In 2001, the ULCC adopted a uniform act for the implementation of the Convention. The Coordinating Committee of Senior Officials - Family Justice (CCSO-FJ) Working Group on Parenting and Contact Enforcement and Jurisdiction, in collaboration with the Department of Justice is analyzing the implications of implementing the Convention in Canada. In this context, the Department of Justice has commissioned pre-implementation studies of the Convention in regard to the law of a common law jurisdiction and Quebec civil law to assist provincial and territorial officials in their analysis. Federal officials are currently working with some provincial officials to revise and finalize these studies.

[127] The Department of Justice is also currently consulting with other federal departments on the Convention, as well as reviewing the need for amendments to the *Divorce Act* as part of its implementation efforts.

[128] In 2014, the Hague Conference published the Practical Handbook on the operation of the 1996 Child Protection Convention. This publication provides practical advice for States that are considering implementing the Convention. It includes the “implementation check list” that was finalized in 2009. The Handbook is available on the Hague Conference’s website at www.hcch.net/upload/handbook34fr.pdf

[129] *Action required in Canada:* Continue working with federal-provincial-territorial partners. Finalize federal consultations regarding implementation. Actively promote implementation of the Convention in Canada. Coordinate Canadian participation in the informal network of international experts.

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c. *Convention on the Civil Aspects of International Child Abduction (Hague Conference)*

[130] The *Convention on the Civil Aspects of International Child Abduction* is the first Hague Convention to be ratified by Canada and in force in all the Canadian jurisdictions. The Convention provides for an expeditious remedy in order to obtain the return to the State of habitual residence of a child who has been wrongfully removed to, or who is wrongfully retained in, another Contracting State in breach of custody rights. Each State party is required to establish a Central Authority to deal with requests for the return of abducted children or for assistance in the exercise of access rights. There are currently 92 States party to the Convention.

[131] In Canada, there is a Central Authority in every province and territory within the Ministry of the Attorney General or the Department of Justice. The federal Central Authority is located in the Department of Justice Legal Services Unit at the Department of Foreign Affairs, Trade and Development Canada. The Central Authorities work collaboratively with a number of domestic partners, including the Royal Canadian Mounted Police through the National Missing Children Services program.

[132] Canada has yet to make decisions on the acceptance of the accessions to the Convention by the following 19 States: Albania, Andorra, Armenia, Dominican Republic, Gabon, Guatemala, Guinea, Irak, Kazakhstan, Lesotho, Morocco, Nicaragua, Republic of Korea, Russian Federation, San Marino, Seychelles, Singapore, Thailand and Ukraine. The gathering of information regarding these States continues in cooperation with the Federal Central Authority and the Consular Operations Bureau at DFATDC. Communication with the provinces and territories on the possible acceptance of these accessions will follow.

[133] In January 2014, Canada participated in the second meeting of the Working Group to develop a guide to good practice on the interpretation and application of Article 13(1) (b) of the Convention, which was established as a follow-up to the Sixth Meeting of the Special Commission to review the practical operation of the Convention held in June 2011 and January 2012. The final draft of this guide is expected to be presented for discussion at the next meeting of the Special Commission.

[134] *Action required in Canada:* Continue the acceptance of accessions process. Continue participation in the Working Group to develop a guide to good practice on the interpretation and application of Article 13(1) (b) of the Convention.

2. MEDIUM PRIORITIES

a. *Convention on the International Protection of Adults (Hague Conference)*

[135] The 2000 Convention on the International Protection of Adults creates global legal solutions to address the problems raised by increased transborder movement of adults in need of protection due to a mental incapacity, or an insufficiency or impairment of their faculties. The Convention came into force internationally on January 1, 2009. There are currently 8 Contracting States.

[136] The ULCC, in collaboration with the Department of Justice, prepared a uniform implementation act for the Convention, which it adopted in 2001. Saskatchewan adopted legislation based on the ULCC Uniform Act in 2005.

[137] *Action required in Canada:* Coordinate federal implementation studies and promote implementation in provinces and territories.

b. *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Conference)*

[138] The *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* establishes procedural safeguards to ensure that international adoption takes place in the best interests of the child and with respect for his or her fundamental rights. It also establishes a system of cooperation between countries of origin and receiving countries to ensure the respect of those safeguards, and thereby to prevent the abduction, the sale of, or the traffic in children. Finally, it secures the recognition in States party of adoptions made in accordance with the Convention.

[139] There are currently 93 States party to the Convention. It entered into force in Canada on April 1, 1997 and its application has been extended to all the provinces and territories.

[140] In April 2014, the Council on General Affairs and Policy of the Hague Conference welcomed the Note on the Financial Aspects of Intercountry Adoption and related annexes. It mandated the Experts' Group that participated in the preparation of the Note to continue its work, which may include the development of new practical tools and consideration of broader issues such as measures to prevent and sanction improper financial gain. The Note and annexes are available on the Hague Conference's website.

[141] In April 2014, the Council on General Affairs and Policy also welcomed the preparatory work undertaken in relation to the next meeting of the Special Commission on the Convention, which is scheduled for the first half of 2015. The Department of

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Justice Canada (IPLS) will work with federal, provincial and territorial officials in preparation for this meeting.

[142] *Action required in Canada:* Coordinate preparatory work for the next meeting of the Special Commission as well as Canadian participation in the Experts' Group.

D. PROTECTION OF PROPERTY

1. MEDIUM PRIORITIES

a. *Convention Providing a Uniform Law on the Form of an International Will (Unidroit)*

[143] The purpose of the Convention is to establish an international form of will, additional to the forms in use in Contracting States, which is to be recognised as valid in all Contracting States without reference to the conflict of law rules concerning the validity of wills.

[144] This Convention currently applies to 12 States, including Canada, where it has been extended to nine provinces (Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan). To facilitate implementation of the Convention, the ULCC prepared an amendment to the Uniform Wills Act in 1974. Adoption of implementing legislation in those Canadian jurisdictions that have not yet done so would allow a greater number of Canadians to benefit from the Convention.

[145] *Action required in Canada:* Consult with the jurisdictions that have not yet implemented the Convention.

b. *Convention on the Law Applicable to Trusts and on their Recognition (Hague Conference)*

[146] The Convention provides rules to determine the law applicable to foreign trusts. It also requires the recognition of these trusts by those Contracting States including by civil law countries which do not provide for trusts in their law.

[147] This Convention is currently in force in 12 States, the majority of which are civil law jurisdictions. It entered into force for Canada on January 1, 1993 and now applies to eight jurisdictions (Alberta, British Columbia, Prince Edward Island, New Brunswick, Newfoundland and Labrador, Nova Scotia, Manitoba and Saskatchewan). Adoption of

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implementing legislation in those Canadian jurisdictions that have not yet done so would allow a greater number of Canadians to benefit from the Convention.

[148] *Action required in Canada:* Consult with the jurisdictions that have not implemented the Convention.

2. LOW PRIORITIES

a. *Convention on the Return of Stolen or Illegally Exported Cultural Objects* (Unidroit)

[149] The Convention on the Return of Stolen or Illegally Exported Cultural Objects was finalised in 1995. It sets out rules for the restitution or return of stolen or illegally exported cultural objects, subject to certain limitation periods. The Convention also provides for compensation of bona fide purchasers and addresses the issue of the proper jurisdiction in which to bring a claim. There are currently 36 States party to the Convention.

[150] Model Provisions on State Ownership of Undiscovered Cultural Objects were recently developed by a Group of Experts convened by the UNESCO and Unidroit Secretariats. They are intended to be used in drafting new provisions or in adapting existing provisions governing State ownership of such property. Furthermore, the Model Provisions seek to facilitate the restitution of cultural property in case of unlawful removal and the implementation of the Convention.

[151] The Unidroit Secretariat continues its efforts to promote the Convention and the Model Legislative Provisions in partnership with other intergovernmental organizations such as UNESCO.

[152] *Action required in Canada:* When requested, assist the Department of Canadian Heritage in consultations.

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CONCLUSION

[153] This report deals with the activities of the Department of Justice in international private law over the past year and its current priorities. While the focus is on recent developments, the report also gives an overview of the status of international instruments in Canada. It must be emphasized that the accomplishments of the last year rest on the work carried out over more than 40 years by many Canadians from all levels of government and all sectors. The Department acknowledges with great appreciation the contributions of so many who have given their time and expertise thus allowing Canada to take a leading role in many international private law activities at the international level.

[154] Further work remains to be done in terms of implementation of existing international instruments at the provincial, territorial and federal levels. Over the coming year, the Department of Justice will continue to promote implementation and dedicate time to implementation activities. This work will be subject to resources available and government priorities. The allocation of resources to implementation activities is further challenged by the increasing number of topics for discussions in international forums affecting the workload of Justice officials. The Department will continue its active involvement in these discussions in order to promote Canada's interests in private international law, but may need to prioritize work and subjects. Comments from the Canadian business community, the legal community and stakeholders generally are useful in that respect for setting priorities.

[155] Given the recent developments leading to the ratification of two international private law conventions in the last few years, we suggest that particular attention be given to the following conventions in terms of implementation priorities in the medium term:

- *Convention Providing a Uniform Law on the Form of an International Will* (Unidroit)
- *ICSID Convention* (World Bank)
- *Convention on the Use of Electronic Communications in International Contracts* (UNCITRAL)

[156] The Department of Justice also intends to continue working and supporting work on the analysis of implementing the following conventions:

- *Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (Hague Conference)

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- *Convention on the International Protection of Adults* (Hague Conference)
- *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (Hague Conference)
- *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (Hague Conference)
- *Convention on Choice of Court Agreements* (Hague Conference)

[157] In terms of both implementation of existing international instruments and developing new ones, the Department of Justice is grateful to the ULCC for its highly constructive collaboration and support for the Department's work in this area. We look forward to continuing our international private law work with the Conference.

[158] We would like to reiterate our invitation to members of the ULCC to provide us with comments or questions arising from this report. We would be particularly interested in knowing whether the ordering of our priorities is consistent with the priorities of the provincial and territorial governments. Your comments or questions may be directed to any IPLS counsel at the Department (see contact list in Annex E).

List of principal international private law conventions, protocols and model laws adopted by the Hague Conference on Private International Law, UNCITRAL, Unidroit and the OAS

Hague Conference on Private International Law (since 1954)

Conventions and Protocols

- 1954 - Convention of 1 March 1954 on civil procedure
- 1955 - Convention of 15 June 1955 on the law applicable to international sales of goods
- 1955 - Convention of 15 June 1955 relating to the settlement of the conflicts between the law of nationality and the law of domicile
- 1956 - Convention of 1 June 1956 concerning the recognition of the legal personality of foreign companies, associations and institutions
- 1959 - Convention of 24 October 1956 on the law applicable to maintenance obligations towards children
- 1958 - Convention of 15 April 1958 on the law governing transfer of title in international sales of goods
- 1958 - Convention of 15 April 1958 on the jurisdiction of the selected forum in the case of international sales of goods
- 1959 - Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children
- 1961 - Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of infants
- 1961 - Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions
- 1961 - Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
- 1965 - Convention of 15 November 1965 on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions
- 1965 - Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
- 1965 - Convention of 25 November 1965 on the Choice of Court
- 1971 - Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters
- 1971 - Supplementary Protocol of 1 February 1971 to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters
- 1970 - Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters
- 1970 - Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations
- 1971 - Convention of 4 May 1971 on the Law Applicable to Traffic Accidents
- 1973 - Convention of 2 October 1973 Concerning the International Administration of the Estates of Deceased Persons

- 1973 - Convention of 2 October 1973 on the Law Applicable to Products Liability
- 1973 - Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations
- 1973 - Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations
- 1978 - Convention of 14 March 1978 on the Law Applicable to Matrimonial Property Regimes
- 1978 - Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages
- 1978 - Convention of 14 March 1978 on the Law Applicable to Agency
- 1980 - Convention of 25 October 1980 on the Civil Aspects of International Child Abduction
- 1980 - Convention of 25 October 1980 on International Access to Justice
- 1985 - Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition
- 1986 - Convention of 22 December 1986 on the Law Applicable to Contracts for the International Sale of Goods
- 1989 - Convention of 1 August 1989 on the Law Applicable to Succession to the Estates of Deceased Persons
- 1993 - Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
- 1996 - Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children
- 2000 - Convention of 13 January 2000 on the International Protection of Adults
- 2005 - Convention of 30 June 2005 on Choice of Court Agreements
- 2006 - Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary
- 2007 - Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance
- 2007 - Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations

UNCITRAL

Conventions

- 1958 - Convention on the Recognition and Enforcement of Foreign Arbitral Awards - the "New York" Convention
- 1974 - Convention on the Limitation Period in the International Sale of Goods
- 1978 - United Nations Convention on the Carriage of Goods by Sea - the "Hamburg Rules"
- 1980 - United Nations Convention on Contracts for the International Sale of Goods (CISG)
- 1988 - United Nations Convention on International Bills of Exchange and International Promissory Notes
- 1991 - United Nations Convention on the Liability of Operators of Transport Terminals in International Trade
- 1995 - United Nations Convention on Independent Guarantees and Stand-by Letters of Credit

- 2001 - United Nations Convention on the Assignment of Receivables in International Trade
- 2005 - United Nations Convention on the Use of Electronic Communications in International Contracts
- 2008 - United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea - the "Rotterdam Rules"
- 2014- United Nations Convention on Transparency in Treaty-based Investor-State Arbitration.

Model Laws

- 1985 - UNCITRAL Model Law on International Commercial Arbitration (amended in 2006)
- 1992 - UNCITRAL Model Law on International Credit Transfers
- 1993 - UNCITRAL Model Law on Procurement of Goods and Construction
- 1994 - UNCITRAL Model Law on Procurement of Goods, Construction and Services
- 1996 - UNCITRAL Model Law on Electronic Commerce with Guide to Enactment, with additional article 5 bis as adopted in 1998
- 1997 - UNCITRAL Model Law on Cross-Border Insolvency
- 2001 - UNCITRAL Model Law on Electronic Signatures with Guide to Enactment
- 2002 - UNCITRAL Model Law on International Commercial Conciliation
- 2011 - UNCITRAL Model Law on Public Procurement

UNIDROIT

Conventions and Protocols

- 1964 - Convention relating to a Uniform Law on the International Sale of Goods (The Hague)
- 1964 - Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (The Hague)
- 1970 - International Convention on Travel Contracts (Brussels)
- 1973 – Convention Providing a Uniform Law on the Form of an International Will (Washington, D.C.)
- 1983 - Convention on Agency in the International Sale of Goods (Geneva)
- 1988 - UNIDROIT Convention on International Financial Leasing (Ottawa)
- 1988 - UNIDROIT Convention on International Factoring (Ottawa)
- 1995 - UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome)
- 2001 - Convention on International Interests in Mobile Equipment (Cape Town)
- 2001 - Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment (Cape Town)
- 2007 - Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock (Luxembourg)
- 2009 - Convention on Substantive Rules for Intermediated Securities (Geneva)
- 2012 - Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets (Berlin)

Model Laws

- 2002 - Model Franchise Disclosure Law
- 2008 - UNIDROIT Model Law on Leasing
- 2011 - UNESCO - UNIDROIT Model legislative provisions on State ownership of undiscovered cultural objects

OAS**Conventions and Protocols**

- 1975 - Inter-American Convention on Conflict of Laws concerning Bills of Exchange, Promissory Notes and Invoices
- 1975 – Inter-American Convention on International Commercial Arbitration
- 1975 - Inter-American Convention on Letters Rogatory
- 1975 - Inter-American Convention on the taking of evidence abroad
- 1975 - Inter-American Convention on the Legal Regime of Powers of Attorney to be used abroad
- 1979 - Inter-American Convention on Conflicts of Laws concerning Checks
- 1979 - Inter-American Convention on Conflicts of Laws concerning Commercial Companies
- 1979 - Inter-American Convention on Domicile of Natural Persons in Private International Law
- 1979 - Inter-American Convention on Execution of Preventive Measures
- 1979 - Inter-American Convention on General Rules of Private International Law
- 1979 - Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards
- 1979 - Inter-American Convention on Proof of and Information on Foreign Law
- 1979 - Additional Protocol to the Inter-American Convention on Letters Rogatory
- 1984 - Inter-American Convention on Conflict of Laws concerning the Adoption of Minors
- 1984 - Inter-American Convention on Jurisdiction in the International Sphere for the Extraterritorial Validity of Foreign Judgments
- 1984 - Inter-American Convention on Personality and Capacity of Juridical Persons in Private International Law
- 1984 - Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad
- 1989 - Inter-American Convention on Contracts for the International Carriage of Goods by Road
- 1989 - Inter-American Convention on the International Return of Children
- 1989 - Inter-American Convention on Support Obligations
- 1994 - Inter-American Convention on International Traffic in Minors
- 1994 - Inter-American Convention on the Law applicable to International Contracts

Model Law

- 2002 - Model Inter-American Specialized Uniform Through Bill of Lading for the International Carriage of Goods by Road
- 2006 - Model Inter-American Law on Secured Transactions
- 2009 - Model Registry Regulations (for Secured Transactions)

OVERVIEW CHART OF INTERNATIONAL PRIVATE LAW PRIORITIES

ORGANIZATIONS:

Hague: Hague Conference on Private International Law

OAS: Organization of American States

UNCITRAL: United Nations Commission on International Trade Law

Unidroit: International Institute for the Unification of Private Law

World Bank

June 2014

Priority Level		International Commercial Law	Judicial Co-operation and Enforcement of Judgments	Family Law	Protection of Property
1	Negotiation	<ul style="list-style-type: none"> Legal standard for online dispute resolution (UNCITRAL) 	<ul style="list-style-type: none"> Judgments Project (Hague) Model Law on Recognition and Enforcement of Foreign Judgments (Commonwealth) 		
	Implementation		<ul style="list-style-type: none"> Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Hague) Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (Hague) 	<ul style="list-style-type: none"> Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague) Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (Hague) 	
	Monitoring		<ul style="list-style-type: none"> Foreign Civil Protection Orders (Hague) 	<ul style="list-style-type: none"> Convention on the Civil Aspects of International Child Abduction (Hague) 	
2	Negotiation	<ul style="list-style-type: none"> Choice of Law in International Commercial Contracts (Hague) Draft Model Law on Secured Transactions (UNCITRAL) 			

Priority Level		International Commercial Law	Judicial Co-operation and Enforcement of Judgments	Family Law	Protection of Property
2		<ul style="list-style-type: none"> • Simplified business incorporation regime (UNCITRAL) 			
	Implementation	<ul style="list-style-type: none"> • Convention on the Settlement of Investment Disputes (ICSID) - (World Bank) • Convention on Independent Guarantees and Stand-by Letters of Credit (UNCITRAL) 		<ul style="list-style-type: none"> • Convention on the International Protection of Adults - (Hague) 	<ul style="list-style-type: none"> • Convention providing an Uniform Law on the Form of an International Will (Unidroit)
	Monitoring	<ul style="list-style-type: none"> • Model provisions for electronic transferable records (UNCITRAL) • Draft legal guide on contract farming (Unidroit) 		<ul style="list-style-type: none"> • Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (Hague) • Child Status and International Surrogacy Arrangements (Hague) 	<ul style="list-style-type: none"> • Convention on the Law Applicable to Trusts - (Hague)
3	Implementation		<ul style="list-style-type: none"> • Convention on Choice of Court Agreements (Hague) 		
	Monitoring	<ul style="list-style-type: none"> • Convention on Securities Held by Intermediaries (Hague) - ULCC Uniform Act • Convention on the Assignment of Receivables (UNCITRAL) • Convention on International Interests in Mobile Equipment and Aircraft Protocol (Unidroit) • Convention on the Use of Electronic Communications in International Contracts (UNCITRAL) • Conventions on the Limitation Period in the International Sale of Goods and Protocol (UNCITRAL) • Model Law on International Commercial Conciliation (UNCITRAL) - ULCC Uniform Act on International Commercial Mediation • Model legislative provisions on interim measures in support of arbitration (UNCITRAL) 			<ul style="list-style-type: none"> • Convention on Stolen or Illegally Exported Cultural Objects (Unidroit)

CANADIAN STATUS CHART OF INTERNATIONAL PRIVATE LAW INSTRUMENTS*

International Commercial Law

Priority Level	Instrument	Implementation in Canada	International Status	Action
2 - Implementation	Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID) (World Bank)	<ul style="list-style-type: none"> - ULCC uniform act (1998) - Enacted by Canada (2008), Ontario (1999), British Columbia, Newfoundland and Labrador, Nunavut, Saskatchewan (2006), Northwest Territories (2009) and Alberta (2013) - Applicable in Canada since December 1, 2013 	<ul style="list-style-type: none"> - Entered into force on October 14, 1966 - 150 States party - Ratified by Canada on November 1, 2013 	<ul style="list-style-type: none"> - Continue to seek support from provinces and territories in terms of implementation
	Convention on Independent Guarantees and Stand-by Letters of Credit (UNCITRAL)	<ul style="list-style-type: none"> - ULCC uniform act in preparation 	<ul style="list-style-type: none"> - Entered into force on January 1, 2000 - 8 States party 	<ul style="list-style-type: none"> - Develop a uniform act and commentaries
3 – Implementation	Convention on International Interests in Mobile Equipment and Aircraft Protocol (Unidroit)	<ul style="list-style-type: none"> - ULCC uniform act (2002) - Entered into force in Canada on April 1, 2013 - Application extended to: Alberta, British Columbia, Manitoba, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon - Implementing legislation adopted but not yet in force in New Brunswick 	<ul style="list-style-type: none"> - Entered into force March 1, 2006 - 55 States party (Convention and Protocol) 	<ul style="list-style-type: none"> - Continue implementation efforts - Extension to remaining jurisdictions upon request
	Convention on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary (Hague)	<ul style="list-style-type: none"> - ULCC uniform act under consideration 	<ul style="list-style-type: none"> - Not in force - 3 ratifications – accessions required to enter into force - 2 ratifications 	<ul style="list-style-type: none"> - Development uniform act and commentaries

International Commercial Law

Priority Level	Instrument	Implementation in Canada	International Status	Action
3 - Implementation	Model Law on International Commercial Arbitration (UNCITRAL) Revisions to Model Law on International Commercial Arbitration (UNCITRAL)	<ul style="list-style-type: none"> - ULCC Uniform Act (1987) - 1987 Uniform Act Enacted by all Canadian jurisdictions - 2013 Uniform Act under consideration by provinces and territories 	<ul style="list-style-type: none"> - Model Law adopted in 1985 - Revisions to Model Law adopted in 2006 - Some 65 States have implemented the 1985 or the 2006 versions of the Model Law or legislation inspired from these texts 	<ul style="list-style-type: none"> - Adoption of revised uniform act by interested jurisdictions
	Model Law on International Commercial Conciliation (UNCITRAL)	<ul style="list-style-type: none"> - ULCC uniform act (2005) - Implementing legislation adopted in Nova Scotia (2005) and Ontario (2010) 	<ul style="list-style-type: none"> - Model Law adopted in 2002 - Model Law enacted in 14 States 	<ul style="list-style-type: none"> - Adoption of uniform act by interested jurisdictions
	Convention on the Use of Electronic Communications in International Contracts (UNCITRAL)	<ul style="list-style-type: none"> - ULCC uniform act (2011) 	<ul style="list-style-type: none"> - Entered into force on March 1, 2013 - 5 States party 	<ul style="list-style-type: none"> - Adoption of the uniform act by interested jurisdictions
	Conventions on the Limitation Period in the International Sale of Goods and Protocol (UNCITRAL)	<ul style="list-style-type: none"> - ULCC uniform act (1998) - Implementing legislation adopted but not yet in force in Nunavut (2006) 	<ul style="list-style-type: none"> - Entered into force on August 1, 1988 - 29 States party (Convention); - 22 States party (Convention as amended by the Protocol) 	<ul style="list-style-type: none"> - At the appropriate time, follow-up on consultations with provinces and territories - Consideration by the federal government of adopting implementing legislation - Consider simpler approach to implementation
	Convention on the Assignment of Receivables in International Trade (UNCITRAL)	<ul style="list-style-type: none"> - ULCC uniform act (2007) 	<ul style="list-style-type: none"> - Adopted in 2001 - Not in force - 5 ratifications – accessions required to enter into force - 1 accession 	<ul style="list-style-type: none"> - Monitor ratification developments
3- Monitoring	Convention on Substantive Rules for Intermediated Securities (UNIDROIT)		<ul style="list-style-type: none"> - Adopted in 2009 - Not in force 	<ul style="list-style-type: none"> - None at this time
	Convention on International Bills of Exchange and International Promissory Notes (UNCITRAL)		<ul style="list-style-type: none"> - Adopted in 1988 - Not in force - 10 ratifications – accessions required to enter into force - 5 accessions - Signed by Canada on December 7, 1989 	<ul style="list-style-type: none"> - None at this time

International Commercial Law

Priority Level	Instrument	Implementation in Canada	International Status	Action
3- Monitoring	Convention on International Financial Leasing Convention on International Factoring (Unidroit)	- ULCC uniform act (1995)	- Entered into force on May 1, 1995 - 8 States party (Convention on International Factoring) - 10 States party (Convention on International Financial Leasing)	- Consult with governments and industry on interest
	Convention on the Recognition and Enforcement of Foreign Arbitral Awards (UN)	- Entered into force in Canada on August 10, 1986 - In force in all Canadian jurisdictions	- Entered into force on June 7, 1959 - 150 States party	- None at this time
	Model Law on Electronic Commerce (UNCITRAL)	- ULCC uniform act (1999) - Enacted by all Canadian jurisdictions	- Adopted in 1996 - Model Law enacted in 59 States	- Provide information when requested
	Convention on Contracts for the International Sale of Goods (UNCITRAL)	- Entered into force in Canada on May 1, 1992 - Application extended to all Canadian jurisdictions	- Entered into force on January 1, 1988 - 81 States party	- None at this time
	Model Law on Cross-border Insolvency (UNCITRAL)	- Provisions based on the Model Law in federal insolvency laws	- Adopted in 1997 - Model Law enacted in 19 States	- Provide information when requested

Judicial Cooperation and Enforcement of Judgments

Priority Level	Instrument	Implementation in Canada	International Status	Action
1 - Implementation	Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Hague)		<ul style="list-style-type: none"> - Entered into force on January 24, 1965 - 107 States party 	<ul style="list-style-type: none"> - Continue implementation analysis and follow-up with provinces and territories
	Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague)	<ul style="list-style-type: none"> - Entered into force in Canada on May 1, 1989 - Application extended to all Canadian jurisdictions 	<ul style="list-style-type: none"> - Entered into force on February 10, 1969 - 68 States party 	<ul style="list-style-type: none"> - Continue to provide information and respond to requests regarding the application of the Convention - Coordinate the exchange of information among Canadian Central Authorities
3 - Implementation	Convention on Choice of Court Agreements (Hague)	<ul style="list-style-type: none"> - ULCC uniform act adopted in 2010 	<ul style="list-style-type: none"> - Not in force - 2 ratifications – accessions required to enter into force - 1 ratification 	<ul style="list-style-type: none"> - Coordinate federal implementation analysis and promote implementation in provinces and territories
3 - Monitoring	Canada-France Convention on Recognition and Enforcement of Judgments in Civil and Commercial Matters and on Mutual Legal Assistance in Maintenance (Bilateral)	<ul style="list-style-type: none"> - ULCC uniform act (1997) - Implementing legislation adopted in Saskatchewan (1998), Ontario (1999) and Manitoba (2000) 	<ul style="list-style-type: none"> - Not in force - Convention signed on June 10, 1996 	<ul style="list-style-type: none"> - None at this time

Family Law

Priority Level	Instrument	Implementation in Canada	International Status	Action
1 - Implementation	Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague)	- CCSO – Family Justice Working Group and Sub-Working Group on implementation in Canada	- Entered into force on January 1, 2013 - 5 States party	- Continue work on implementation analysis
	Convention on Jurisdiction, Applicable Law, Recognition and Enforcement, and Co-operation in matter of Parental Responsibility and Measures of Protection of Children (Hague)	- ULCC uniform act (2001) CCSO – Family Justice Working Group on implications of implementation	- Entered into force on January 1, 2002 - 41 States party	- Continue work on implementation analysis, including federal implementation issues
1 - Monitoring	Convention on the Civil Aspects of International Child Abduction (Hague)	- Entered into force in Canada on December 1, 1983 - Application extended to all Canadian jurisdictions:	- Entered into force on December 1, 1983 - 92 States party	- Consider decisions on acceptance of 18 States that acceded to the Convention - Participate in the Hague Working Group to develop a Guide to Good Practice on Article 13 b) of the Convention
2 - Implementation	Convention on the International Protection of Adults (Hague)	- ULCC uniform act (2001) - Implementing legislation adopted in Saskatchewan (2005)	- Entered into force on January 1, 2009 - 8 States party	- Work with other federal departments and provincial and territorial authorities on implementation issues.
2- Monitoring	Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague)	- ULCC uniform act (1996) - Entered into force in Canada on April 1, 1997 - Application extended to all Canadian jurisdictions	- Entered into force on May 1, 1995 - 93 States party	- Coordinate participation in Experts Group on costs related to intercountry adoption - Coordinate preparation for next meeting of the Special Commission to take place in the spring 2015, at the latest

Protection of Property

Priority Level	Instrument	Implementation in Canada	International Status	Action
2 - Implementation	Convention Providing a Uniform Law on the Form of an International Will (Unidroit)	<ul style="list-style-type: none"> - Entered into force in Canada on February 9, 1978 - Application extended to Canadian jurisdictions: Alberta, Manitoba, Newfoundland and Labrador, Ontario (1978), Saskatchewan (1982), Prince Edward Island (1995), New Brunswick (1997), Nova Scotia (2001), British Columbia (2014) 	<ul style="list-style-type: none"> - Entered into force on February 9, 1978 - 12 States party 	<ul style="list-style-type: none"> - Consult with jurisdictions that have not yet implemented the Convention
2 - Monitoring	Convention on the Law Applicable to Trusts and on their Recognition (Hague)	<ul style="list-style-type: none"> - Entered into force in Canada on January 1, 1993 - Application extended to Canadian jurisdictions: Alberta, British Colombia, New Brunswick, Newfoundland and Labrador, Prince Edward Island (1993), Manitoba, Saskatchewan (1994), Nova Scotia (2006) 	<ul style="list-style-type: none"> - Entered into force on January 1, 1992 - 12 States party 	<ul style="list-style-type: none"> - Consult with the jurisdictions that have not yet implemented the Convention
3- Monitoring	Convention on the Law Applicable to Successions to the Estates of Deceased Persons (Hague)		<ul style="list-style-type: none"> - Not in force - 3 ratifications – accessions required to enter into force - 1 ratification 	<ul style="list-style-type: none"> - Consult in Canada on possible Canadian ratification and implementation, when appropriate
	Convention on the Return of Stolen or Illegally Exported Cultural Objects (Unidroit) 2011 Model Legislative Provisions on State Ownership of Undiscovered Cultural Objects (Unidroit/UNESCO)		<ul style="list-style-type: none"> - Entered into force on July 1st, 1998 - 33 States party (Convention) 	<ul style="list-style-type: none"> - When requested, assist the Department of Canadian Heritage in consultations on the Convention

PROVISIONAL SCHEDULE OF INTERNATIONAL PRIVATE LAW MEETINGS

August 2014 – July 2015

Meeting		Dates	Place
1.	UNCITRAL Working Group II: Arbitration and Conciliation	15 – 19, September 2014	Vienna
2.	UNCITRAL Working Group III: Online Dispute Resolution	20 – 24 October 2014	Vienna
3.	UNCITRAL Working Group IV: Electronic Commerce	10 – 14 November 2014	Vienna
4.	UNCITRAL Working Group I: Micro-, Small- and Medium-sized Enterprises	17 – 21 November 2014	Vienna
5.	Unidroit – Working Group on Contract Farming (Fourth meeting)	17 – 21 November 2014	Rome
6.	Unidroit – Transnational Civil Procedure – Formulation of Regional Rules	27 – 28 November 2014	Rome
7.	UNCITRAL Working Group VI: Security Interests	8 – 12 December 2014	Vienna
8.	UNCITRAL Working Group V: Insolvency Law	15 – 19 December 2014	Vienna
9.	UNCITRAL Working Group II: Arbitration and Conciliation	2 – 6 February 2015	New York
10.	UNCITRAL Working Group III: Online Dispute Resolution	9 – 13 February 2015	New York
11.	HCCH – General Affairs & Policy	22 – 28 March 2015	The Hague
12.	UNCITRAL Working Group I: Micro-, Small- and Medium-sized Enterprises	13 – 17 April 2015	New York

Meeting		Dates	Place
13.	UNCITRAL Working Group VI: Security Interests	20 – 24 April 2015	New York
14.	UNIDROIT – 94 th Session of the Governing Council	4 – 9 May 2015	Rome
15.	UNCITRAL Working Group IV: Electronic Commerce	18 – 22 May 2015	New York
16.	UNCITRAL Working Group V: Insolvency Law	26 – 29 May 2015	New York
17.	HCCH – Special Commission on Intercountry Adoption Convention	June 2015	The Hague
18.	UNCITRAL 48 th Commission Session	29 June – 16 July 2015	Vienna

INTERNATIONAL PRIVATE LAW SECTION CONTACTS (2014)

Kathryn Sabo General Counsel and Director	613-957-4967 kathryn.sabo@justice.gc.ca
Manon Dostie Senior Counsel	613-957-7882 manon.dostie@justice.gc.ca
Dominique D’Allaire Counsel	613-954-0198 ddallair@justice.gc.ca
Marie Riendeau Counsel	613-941-9185 marie.riendeau@justice.gc.ca
Valérie Simard Counsel	613-957-4888 valerie.simard@justice.gc.ca