

**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  
2024**

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# TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	<b>1</b>
<b>I. FEDERAL-PROVINCIAL-TERRITORIAL AND EXTERNAL COOPERATION</b>	<b>1</b>
<b>A. ADVISORY GROUP ON PRIVATE INTERNATIONAL LAW</b> .....	<b>2</b>
<b>B. UNIFORM LAW CONFERENCE OF CANADA</b> .....	<b>2</b>
<b>II. INTERNATIONAL ORGANIZATIONS AND RELATIONS</b> .....	<b>2</b>
<b>A. THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW</b> .....	<b>2</b>
<b>B. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW</b> .....	<b>3</b>
<b>C. THE INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW</b> .....	<b>4</b>
<b>D. WORLD BANK</b> .....	<b>5</b>
<b>E. COMMONWEALTH</b> .....	<b>5</b>
<b>F. THE ORGANIZATION OF AMERICAN STATES</b> .....	<b>5</b>
<b>G. BILATERAL RELATIONS</b> .....	<b>6</b>
<b>III. PRIORITIES OF THE DEPARTMENT OF JUSTICE IN INTERNATIONAL PRIVATE LAW</b> .....	<b>6</b>
<b>A. INTERNATIONAL COMMERCIAL LAW</b> .....	<b>6</b>
<b>1. HIGH PRIORITIES</b> .....	<b>6</b>
a. Model Clauses on Specialized Express Dispute Resolution (SPEDR Model Clauses) (UNCITRAL) .....	<b>6</b>
b. Early dismissal and preliminary determination in international commercial arbitration (UNCITRAL).....	<b>7</b>
c. Negotiable Cargo Documents (UNCITRAL) .....	<b>7</b>
d. UNCITRAL/UNIDROIT Model Law on Warehouse Receipts.....	<b>7</b>
e. Convention on International Settlement Agreements Resulting from Mediation and related modifications to the Model Law on International Commercial Mediation (UNCITRAL) .....	<b>8</b>
f. United Nations Convention on the Use of Electronic Communications in International Contracts (UNCITRAL) – ULCC Uniform Electronic Communications Convention Implementation Act.....	<b>8</b>
g. Model Law on International Commercial Arbitration (1985, amended in 2006) (UNCITRAL) - Uniform International Commercial Arbitration Act (ULCC).....	<b>9</b>
h. Convention on the Limitation Period in the International Sale of Goods and Protocol (UNCITRAL).....	<b>10</b>
<b>2. MEDIUM PRIORITIES</b> .....	<b>10</b>
a. Data provision contracts (UNCITRAL).....	<b>10</b>
b. Automated contracts (UNCITRAL) .....	<b>11</b>
c. Convention on the Settlement of Investment Disputes between States and Nationals of Other States (World Bank).....	<b>11</b>
<b>3. LOW PRIORITIES</b> .....	<b>12</b>
a. Convention on International Interests in Mobile Equipment and its Protocols (UNIDROIT) .....	<b>12</b>
b. Convention on the Assignment of Receivables in International Trade (UNCITRAL) .....	<b>12</b>

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

c. Identity Management and Trust Services (UNCITRAL).....	13
<b>B. JUDICIAL COOPERATION AND ENFORCEMENT OF JUDGMENTS .....</b>	<b>13</b>
<b>1. HIGH PRIORITIES.....</b>	<b>13</b>
a. Judgments Project (HCCH) .....	13
b. Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (HCCH) .....	13
c. Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (HCCH) .....	14
d. Convention on Choice of Court Agreements (HCCH) .....	15
e. Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (HCCH) .....	15
f. Model Law on Cross-border Recognition and Enforcement of Insolvency-related Judgments (UNCITRAL).....	16
<b>2. MEDIUM PRIORITY.....</b>	<b>17</b>
a. Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (HCCH) .....	17
<b>C. INDIVIDUAL AND FAMILY LAW .....</b>	<b>17</b>
<b>1. HIGH PRIORITIES.....</b>	<b>17</b>
a. Status of Children Project (HCCH) .....	17
b. Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (HCCH) .....	18
c. Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (HCCH).....	19
d. Convention on the International Protection of Adults (HCCH).....	20
e. Convention on the Civil Aspects of International Child Abduction (HCCH) .....	21
f. Malta Conference on Cross-Frontier Child Protection and Family Law .....	22
g. Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (HCCH).....	22
<b>D. PROTECTION OF PROPERTY .....</b>	<b>23</b>
<b>1. HIGH PRIORITIES.....</b>	<b>23</b>
a. Convention Providing a Uniform Law on the Form of an International Will (UNIDROIT) .....	23
b. Convention on the Law Applicable to Trusts and on their Recognition (HCCH) .....	23
<b>2. LOW PRIORITIES.....</b>	<b>24</b>
a. Convention on the Return of Stolen or Illegally Exported Cultural Objects (UNIDROIT) .....	24
<b>CONCLUSION .....</b>	<b>24</b>

**ANNEX A - OVERVIEW CHART OF INTERNATIONAL PRIVATE LAW PRIORITIES**

**ANNEX B - CANADIAN STATUS CHART OF INTERNATIONAL PRIVATE LAW INSTRUMENTS**

**ANNEX C - PROVISIONAL SCHEDULE OF INTERNATIONAL MEETINGS**

**ANNEX D - INTERNATIONAL PRIVATE LAW CONTACTS**

# UNIFORM LAW CONFERENCE OF CANADA

## Report of the Department of Justice Canada

August 2024

### INTRODUCTION

[1] This report on activities and priorities of the Department of Justice in international private law has been prepared by the Department's Constitutional, Administrative and International Law Section (CAILS) for the August 2024 meeting of the Uniform Law Conference of Canada (ULCC). CAILS is the central point for policy development in relation to international private law instruments as well as for the coordination of their implementation in Canada.

[2] In 2024, the Department of Justice has continued to devote resources to the development and implementation of international private law instruments. Two Hague Conference on Private International Law (HCCH) conventions entered into force for Canada: the *Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention) on January 11, 2024, and the *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* on February 1, 2024.

[3] This report covers federal-provincial-territorial (FPT) and external cooperation in international private law (Section I), the international organizations involved in this area of the law (Section II) and the Department's priorities in international private law (Section III). Sections II and III also provide information on the status of implementation of international private law instruments in Canada and recent developments at the international level, including projects under negotiation.

[4] Four annexes complete the report. Annex A provides an overview of the Department's priorities in international private law. Annex B sets out the status of international private law instruments in Canada. Annex C lists international meetings related to international private law in which Canada may participate in the coming year. Finally, Annex D provides the contact details of the Department of Justice's resource persons in international private law.

### **I. FEDERAL-PROVINCIAL-TERRITORIAL AND EXTERNAL COOPERATION**

[5] As the legal issues related to international private law most often fall within provincial jurisdiction, FPT cooperation is essential to progress being achieved in this area. Consultations with the legal and business community, academics, and stakeholders are useful where the work of the Department of Justice in international private law relates closely to their interests.

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

### A. ADVISORY GROUP ON PRIVATE INTERNATIONAL LAW

[6] The Advisory Group on Private International Law (AGPIL) is an FPT group established by the Department of Justice. AGPIL is composed of six provincial and territorial representatives (representing British Columbia, the Prairie Provinces, Ontario, Québec, the Atlantic Provinces, and the three Territories) and federal representatives from the Department of Justice and, on an *ad hoc* basis, the Department of Global Affairs Canada (GAC). AGPIL meets twice yearly and provides the Department of Justice with continuing advice on the provincial and territorial aspects of international private law projects, including the need for additional work to be carried out with respect to specific issues of interest for the provinces and territories.

### B. UNIFORM LAW CONFERENCE OF CANADA

[7] Instituted in 1918, the ULCC provides independent and informed analysis and recommendations for the harmonization and reform of laws in Canada. The ULCC constitutes the key mechanism for facilitating the implementation of international private law instruments in Canada via the development of uniform implementing legislation that can be adopted by governments in Canada. The Department of Justice actively participates in the ULCC's work.

## II. INTERNATIONAL ORGANIZATIONS AND RELATIONS

### A. THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

[8] The HCCH, which held its first session in 1893, has 91 Members, including Canada since 1968. Its objective is to work toward the progressive unification of rules of private international law. Since its inception, over 40 conventions and instruments have been adopted under its auspices. The Council on General Affairs and Policy (CGAP), the governing body of the organization, is primarily responsible for the work programme. As of July 1, 2024, the HCCH has added Spanish to English and French as the organization's official languages. Further information on the HCCH is available at [www.hcch.net](http://www.hcch.net).

[9] Over the past year, Canada has participated in the HCCH's activities in various areas of civil and commercial matters, judicial cooperation and individual and family law. These activities are described in Section III. In addition to these activities, the HCCH is studying the applicable law and jurisdiction issues raised by the cross-border use and transfers of central bank digital currencies; cooperating with UNCITRAL and UNIDROIT on insolvency related matters; and monitoring developments on private international law and intellectual property, voluntary carbon markets, and the digital economy.

## UNIFORM LAW CONFERENCE OF CANADA

[10] Canada is party to six HCCH conventions: the *Convention on the Service Abroad of Judicial and Extra-judicial Documents in Civil or Commercial Matters* (in force for Canada 89/05/01); the *Convention on the Civil Aspects of International Child Abduction* (in force for Canada 83/12/01); the *Convention on the Law Applicable to Trusts and on their Recognition* (in force for Canada 93/01/01); the *Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* (in force for Canada 97/04/01); the *Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (in force for Canada 24/01/11); and the *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (in force for Canada 24/02/01). In addition, on May 23, 2017, Canada signed the *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*. The Department continues its work towards ensuring implementation and application of HCCH instruments in Canada.

### **B. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW**

[11] United Nations Commission on International Trade Law (UNCITRAL), the core legal body within the United Nations (UN) system in the field of international trade law, aims to further the progressive harmonization and unification of the law of international trade. To reach this goal, UNCITRAL uses various instruments: it has prepared or is responsible for 14 conventions, 14 model laws, uniform rules, and several legal and legislative guides. Further information on UNCITRAL can be found at: [www.uncitral.org](http://www.uncitral.org).

[12] UNCITRAL comprises 70 Member States, including Canada. These Member States represent various geographic regions and the principal economic systems and legal traditions of the world. Members are elected for a six-year term by the UN General Assembly. Other States and international governmental and non-governmental organizations may participate as observers in UNCITRAL annual meetings and its working groups.

[13] The work of UNCITRAL in which Canada over the past year is described in Section III. This year, UNCITRAL adopted several texts at its annual session held in June and July including the UNCITRAL Model Clauses on Specialized Express Dispute Resolution (SPEDR Model Clauses) and the UNCITRAL Model Law on Automated Contracting as well as the UNCITRAL/UNIDROIT Model Law on Warehouse Receipts. In addition, at this session, UNCITRAL approved new work on electronic arbitration awards, on a stocktaking exercise to examine UNCITRAL texts that contain electronic aspects and a survey of the uptake of these texts by States, on examining the relevance of UNCITRAL instruments on climate action by States, and on the stocktaking of legislative developments regarding new types of assets and their treatment under the UNCITRAL Model Law on Secured

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

Transactions. Furthermore, UNCITRAL confirmed that it is continuing its work on civil asset tracing and recovery, applicable law in insolvency proceedings, and investor-State dispute settlement reform. It is also continuing its stocktaking exercise on the latest trends regarding international dispute resolution (DR) and the development of new forms of DR particularly those related to arbitration and mediation practices.

[14] Canada is party to three United Nations conventions relating to international commercial law: the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (in force for Canada 86/08/10), the *United Nations Convention on Contracts for the International Sale of Goods* (in force for Canada 92/05/01), and the *United Nations Convention on Transparency in Treaty-based Investor-State Arbitration* (in force for Canada 17/10/18).

[15] Legislation implementing the UNCITRAL Model Law on International Commercial Arbitration (1985) has been adopted in Canada, and the 2006 revisions to the Model Law have been incorporated in the 2014 ULCC Uniform International Commercial Arbitration Act. 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 by all Canadian jurisdictions.

### **C. THE INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW**

[16] The International Institute for the Unification of Private Law (UNIDROIT), located in Rome, was created in 1926 as an organ of the League of Nations. Since 1940, it has been an independent inter-governmental organization. There are 65 Member States, including Canada since 1968. UNIDROIT's mandate is to harmonize and co-ordinate the private law of its Member States. Since its creation, UNIDROIT 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 can be found at: [www.unidroit.org](http://www.unidroit.org).

[17] UNIDROIT's work programme for 2023-2025 includes work on best practices for effective enforcement; the legal nature of voluntary carbon credits; the modernization, harmonization and standardization of investment contracts between states and state-owned enterprises and private foreign investors; private art collections and orphan objects; principles of reinsurance contracts; a guide on the legal structure of agricultural enterprises; and a legal guide on agricultural financing. UNIDROIT will also conduct exploratory research in relation to intellectual property issues in the field of personalised medicine and corporate sustainability due diligence in global value chains. It may also conduct



## UNIFORM LAW CONFERENCE OF CANADA

exploratory work on governance issues and digital challenges of global value chains, standard-essential patents, digital transformation, data governance and artificial intelligence, and access to justice in environmental matters. In May 2023, UNIDROIT's Governing Council adopted the Model Law on Factoring and the Principles on Digital Assets and Private Law.

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

### **D. WORLD BANK**

[19] 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* (ICSID Convention) (in force for Canada 13/01/12). The World Bank also proposes projects of joint interest to UNCITRAL and UNIDROIT and participates in related work. Further information on the World Bank and the ICSID Convention can be found at: [www.worldbank.org](http://www.worldbank.org).

### **E. COMMONWEALTH**

[20] As part of its support to meetings of Law Ministries of the Commonwealth, the Commonwealth Secretariat carries out work in international private law from time to time. For example, Canada supported work, which is now completed, on draft model legislation on the recognition and enforcement of foreign judgments. The Commonwealth Secretariat is now undertaking work on reforms to civil procedure law.

### **F. THE ORGANIZATION OF AMERICAN STATES**

[21] The Organization of American States (OAS), with 35 Member States, including Canada, provides a forum for legal, political, economic, social and cultural cooperation in the Americas. The OAS Inter-American Conference on Private International Law (CIDIP) developed over 25 private international law conventions. Since the seventh and last CIDIP in 2009, the Inter-American Juridical Committee, which serves as an advisory body within the OAS, has taken on a more active role in harmonizing private law through the development of non-binding instruments. Further information on the OAS can be found at: [www.oas.org](http://www.oas.org). Canada is not party to any of the OAS international private law conventions.

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

**G. BILATERAL RELATIONS**

[22] Canada is party to 25 bilateral treaties on judicial cooperation (service and taking of evidence abroad). These treaties are available on GAC’s website at [www.treaty-accord.gc.ca](http://www.treaty-accord.gc.ca) (under the headings “Bilateral” and “Judicial Co-operation (civil and commercial)”).

[23] Canada has a bilateral convention with the United Kingdom, the 1984 *Canada-UK Convention on the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters*, which was implemented by all provinces and territories apart from Québec and Nunavut.

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

[24] This section presents the Department of Justice's activities in the field of international private law. They are divided into 4 themes: international commercial law, judicial cooperation and enforcement of judgments, individual and family law, and protection of property.

[25] A priority level is assigned to each project (high, medium, low). The Department of Justice, in collaboration with AGPIL, has established this order of priority based on the anticipated benefits for Canada, the interest of stakeholders, its overall costs and benefits, and the challenges and difficulties associated with the implementation of the instrument resulting from the project.

**A. INTERNATIONAL COMMERCIAL LAW**

**1. HIGH PRIORITIES**

**a. Model Clauses on Specialized Express Dispute Resolution (SPEDR Model Clauses)  
(UNCITRAL)**

[26] The UNCITRAL Model Clauses on Specialized Express Dispute Resolution (SPEDR Model Clauses) were adopted by UNCITRAL in July 2024. They are comprised of four model clauses: the Model Clause on Highly Expedited Arbitration, the Model Clause on Adjudication, the Model Clause on Technical Advisor, and the Model Clause on Confidentiality.

## UNIFORM LAW CONFERENCE OF CANADA

[27] The objective of the SPEDR Model Clauses is to provide a legal framework for simplified and accelerated mechanisms to resolve in a brief time frame disputes involving a third party with relevant expertise, not necessarily resulting in a final award but the outcome still being enforceable across borders. The SPEDR Model Clauses built on the existing framework of the UNCITRAL Expedited Arbitration Rules (“EARs”).

[28] *Action to be taken in Canada:* Share the SPEDR Model Clauses with stakeholders.

### **b. Early dismissal and preliminary determination in international commercial arbitration (UNCITRAL)**

[29] A guidance text on early dismissal and preliminary determination was adopted by UNCITRAL in July 2023. The text was added as Note 21 to the UNCITRAL Notes on Organizing Arbitral Proceedings (2016).

[30] Although the Working Group agreed that Article 17 of the UNCITRAL Arbitration Rules gives appropriate discretion to the arbitral tribunal to deal with those issues, the Working Group was of the opinion that additional guidance would be useful.

[31] *Action to be taken in Canada:* Share the revised UNCITRAL Notes on Organizing Arbitral Proceedings (2016) with stakeholders.

### **c. Negotiable Cargo Documents (UNCITRAL)**

[32] Negotiations of a convention that to create a new type of document of title that will be known as a “negotiable cargo document” are underway at UNCITRAL. The negotiable cargo document will perform a function analogous to a maritime bill of lading and could be used for the carriage of goods by any mode of transport in a multimodal or unimodal context.

[33] Access to negotiable cargo documents will allow importers to sell their goods while they are in transit through the transfer of these documents. Importers will also be able to use these documents as collateral to finance the purchase of goods and to guarantee payment to exporters. In addition, the convention will support the use of negotiable cargo documents issued electronically which will help facilitate the transfer of these documents.

[34] *Action to be taken in Canada:* Consult stakeholders and provincial and territorial governments on materials for upcoming Working Group sessions and participate in sessions.

### **d. UNCITRAL/UNIDROIT Model Law on Warehouse Receipts**

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

[35] The UNCITRAL/UNIDROIT Model Law on Warehouse Receipts was adopted by UNCITRAL in June 2024. The Model Law was developed as a joint project of UNCITRAL and UNIDROIT. It provides a legal framework that covers the private law aspects of a warehouse receipt system for adoption by States seeking to legislate or to reform their legislation in this area. It contemplates the issuance and transfer of both paper-based and electronic warehouse receipts on a medium-neutral and technology-neutral basis. This allows the use of central registries, distributed ledgers, platforms and other technologies for managing the electronic warehouse receipts.

[36] *Action to be taken in Canada:* Consult provincial and territorial governments to assess interest in the adoption of the Model Law.

**e. *Convention on International Settlement Agreements Resulting from Mediation and related modifications to the Model Law on International Commercial Mediation (UNCITRAL)***

[37] Two UNCITRAL instruments promoting a greater use of mediation to resolve international disputes were adopted by UNCITRAL in July 2018: the *Convention on International Settlement Agreements Resulting from Mediation* (Singapore Convention) and the revised UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (2018 Model Law), which amends the 2002 Model Law on International Commercial Mediation. These instruments establish a harmonized legal framework for the right to invoke settlement agreements as well as for their enforcement.

[38] *Action to be taken in Canada:* Consult stakeholders and provincial and territorial governments to help ascertain interest in Canada becoming party to the Convention and/or adopting revisions to the Model Law.

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

[39] The *United Nations 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. The Convention entered into force internationally on March 1, 2013, and currently has 18 Contracting States.

[40] In addition to providing substantive rules on the use of electronic communications for parties to international contracts, the Convention applies to the use of electronic

## UNIFORM LAW CONFERENCE OF CANADA

communications in connection with the formation or performance of a contract to which existing international conventions apply. The Convention also applies to any international convention to which a State may become party. A State may, however, make a declaration of non-application of this Convention in respect of one or more Conventions to which it is or becomes a party. The Convention includes a federal state clause which would allow Canada to become party to it even if the Convention is not implemented in all Canadian jurisdictions.

[41] The ULCC adopted the Uniform Electronic Communications Convention Implementation Act in 2011. Ontario and Saskatchewan have adopted legislation based on the ULCC Uniform Act.

[42] *Action to be taken in Canada:* Governments to consider implementing the Convention by adopting the Uniform Act.

### **g. Model Law on International Commercial Arbitration (1985, amended in 2006) (UNCITRAL) - Uniform International Commercial Arbitration Act (ULCC)**

[43] 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. The Model Law, having been adopted by States of all regions of the world and of different legal and economic systems, reflects worldwide consensus on key aspects of international arbitration practice.

[44] 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 with minor adjustments.

[45] 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 to 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. To date, Ontario and British-Columbia have adopted the Uniform Act.

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

[46] *Action to be taken in Canada:* Governments to consider adopting legislation based on the revised Uniform Act.

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

[47] The Convention and its amending Protocol grew out of the work of UNCITRAL to unify international sales law. They entered into force internationally on August 1, 1988. There are 30 States party to the Convention and 23 States party to the Convention as amended by the Protocol including, in both cases, our Canada-United States-Mexico Agreement (CUSMA) trading partners. Canada is not party to the Convention nor to the Convention as amended by the Protocol.

[48] The Convention and its amending Protocol establish a standard limitation period of four years for the initiation of legal proceedings arising from contracts for the international sale of goods. They dovetail with the 1980 *United Nations Convention on Contracts for the International Sale of Goods*, which is in force throughout Canada. There is substantial similarity between the three conventions, in particular their scope of application, possible declarations and reservations, the federal-state clauses, and the final clauses.

[49] 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 is designed to implement the *United Nations Convention on Contracts for the International Sale of Goods* and the *Convention on the Limitation Period in the International Sale of Goods* and its amending Protocol. Nunavut and Ontario have adopted implementing legislation based on the 1998 Uniform Act.

[50] *Action to be taken in Canada:* Governments to consider implementing the Convention and Protocol by adopting the Uniform Act.

**2. MEDIUM PRIORITIES**

**a. *Data provision contracts (UNCITRAL)***

[51] Since 2022, UNCITRAL has been studying the topic of data provision contracts and developing draft default rules on scope, mode of provisions, conformity of data, use of provided data, derived data, and remedies.

## UNIFORM LAW CONFERENCE OF CANADA

[52] *Action to be taken in Canada:* Consult stakeholders and provincial and territorial governments on materials for upcoming Working Group sessions and participate in sessions.

### **b. Automated contracts (UNCITRAL)**

[53] UNCITRAL adopted the Model Law on Automated Contracting in July 2024. It provides a legal framework to enable the use of automation in international contracts, including through the deployment of artificial intelligence techniques and “smart contracts” as well as in machine-to-machine transactions. It is intended to complement and supplement existing laws on electronic transactions, particularly those based on other UNCITRAL electronic commerce texts, which have been enacted in over one hundred jurisdictions worldwide. The text of the Model Law and accompanying Guide to enactment will be available on UNCITRAL’s website in due course.

[54] *Action to be taken in Canada:* Consult provincial and territorial governments to assess interest in the adoption of the Model Law.

### **c. 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. It has 158 Contracting States including Canada since December 1, 2013, and our main trading partners. The Convention was implemented federally and in Ontario, Saskatchewan, British Columbia, Newfoundland and Labrador, Nunavut, the Northwest Territories, and Alberta.

[56] The Convention applies to disputes between States and nationals (investors) of other States party. It is a unique mechanism since awards rendered by ICSID are enforceable in any country party to the Convention as if they were final court judgments of that country.

[57] Provisions on ICSID arbitration are commonly found in free-trade agreements such as CUSMA and foreign investment protection agreements (FIPAs). These agreements constitute advance consent 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.

[58] *Action to be taken in Canada:* Continue seeking provincial and territorial implementation of the Convention.

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

**3. LOW PRIORITIES**

**a. *Convention on International Interests in Mobile Equipment and its Protocols (UNIDROIT)***

[59] The *Convention on International Interests in Mobile Equipment* provides a framework for the creation of international interests in diverse categories of mobile equipment, priority rules, and an international registry in which these interests can be registered. The Convention includes four protocols, one for each type of mobile equipment - aircraft equipment, mining, agricultural and construction equipment (“MAC” equipment), railway rolling stock and satellites and other space assets.

[60] The Convention and Aircraft Protocol entered into force internationally on March 1, 2006, and for Canada on April 1, 2013. The Convention applies in 86 States, and the Protocol applies in 83 States, including the United States and European Union countries. All Canadian provinces and territories have implemented the Convention and Aircraft Protocol by adopting the 2002 ULCC uniform implementing legislation. Legislation implementing the Convention and Aircraft Protocol is also found at the federal level for matters falling under federal jurisdiction.

[61] The Railway Protocol entered into force internationally on March 8, 2024. The Convention’s other protocols have not yet entered into force.

[62] *Action to be taken in Canada:* Monitor the application of the Convention and Aircraft Protocol in Canada. Consult stakeholders and provincial and territorial governments on their interest in the MAC Protocol.

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

[63] 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. The United States has been party to the Convention since 2019, and Liberia has been party since 2005. It will come into force internationally when it has three more parties. In 2007, the ULCC adopted the Uniform Assignment of Receivables in International Trade Act.

[64] *Action to be taken in Canada:* Monitor international developments.



**c. Identity Management and Trust Services (UNCITRAL)**

[65] UNCITRAL adopted the Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services in July 2022. The text of the Model Law and explanatory notes are available on UNCITRAL’s website.

[66] Identity management is a set of processes to manage the identification, authentication, and expression of consent of individuals and legal entities involved in an online legal relationship. “Trust service” means an electronic service that provides assurance of certain qualities of a data message and includes the methods for creating and managing electronic signatures, electronic seals, electronic time stamps, website authentication, electronic archiving, and electronic registered delivery services.

[67] *Action to be taken in Canada:* Consult provincial and territorial governments to assess interest in the adoption of the Model Law.

**B. JUDICIAL COOPERATION AND ENFORCEMENT OF JUDGMENTS**

**1. HIGH PRIORITIES**

**a. Judgments Project (HCCH)**

[68] Work on matters related to jurisdiction in civil or commercial matters resumed in February 2020 first within the Experts’ Group and then, since the end of 2021, within the Working Group on matters related to jurisdiction in transnational civil or commercial litigation. The mandate of the Working Group is to develop draft provisions on these matters, including rules for concurrent proceedings, to further inform policy considerations and decisions in relation to the scope and type of any new instrument. CGAP has directed the Working Group to focus initially on developing binding rules for concurrent proceedings (parallel proceedings and related actions or claims), keeping in mind the primary role of jurisdictional rules and the doctrine of *forum non conveniens* in developing such rules. It has also directed the working group to explore how flexible mechanisms for judicial coordination and cooperation can support the operation of any future instrument.

[69] *Action to be taken in Canada:* Participate in upcoming Working Group sessions.

**b. Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (HCCH)**

[70] Canada is now among the Apostille Convention’s 127 Contracting States (in force for Canada 24/11/01). Apostille certificates issued under the Convention facilitate the

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

cross-border acceptance of public documents. Public documents, such as incorporation, marriage and birth certificates, diplomas and transcripts are used in cross-border contexts for a variety of business and personal reasons. The HCCH estimates that 30 to 35 million apostilles are issued yearly. The HCCH has also stated that according to an independent experts' study the economic benefit of the Convention in Contracting States amounts to more than half a billion Euros each year.

[71] *Action to be taken in Canada:* Continue providing information regarding the application of the Convention. Coordinate the exchange of information among Canadian Competent Authorities to harmonize Canadian practice.

**c. *Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (HCCH)***

[72] The Convention was adopted by the HCCH on July 2, 2019, and came into force internationally on September 1, 2023. EU Member States (excluding Denmark), the United Kingdom, Ukraine, and Uruguay are party to the Convention. In addition, Costa Rica, Israel, the Russian Federation, and the United States have signed the Convention.

[73] The Convention facilitates the effective international circulation of judgments in civil or commercial matters. By setting forth commonly accepted conditions for recognition and enforcement - and agreed grounds for refusal - the Convention provides legal certainty and predictability to parties involved in cross-border transactions. It does this by providing clarity as to whether and to what extent a judgment will be recognized and enforced in another Contracting State. In doing so, the Convention enhances access to justice (it reduces legal timeframes, costs, and risks in cross-border circumstances). The Convention strengthens a positive national and international environment for multilateral trade, investment, and mobility. The text of the Convention and the Explanatory Report on the Convention prepared by the co-Rapporteurs Professors Geneviève Saumier, then of McGill University (Faculty of Law), and Francisco Garcimartín (Spain) are available on the HCCH website.

[74] Subject to a more detailed analysis, the Convention appears to be satisfactory and does not appear to pose any major difficulties that could not be addressed by way of declaration if Canada were to ratify it. It appears to be broadly compatible with existing Canadian law. If Canada were to become party to it, Canadian judgments would be more easily recognized and enforced in other Contracting States. The Convention contains clauses that would allow Canada to extend its application only to those provinces and territories that would have adopted implementing legislation.

[75] *Action to be taken in Canada:* Monitor international developments. Contribute to ULCC work on uniform implementing legislation.

**d. *Convention on Choice of Court Agreements (HCCH)***

[76] The Convention came into force internationally in 2015 and has 35 Contracting Parties including the United Kingdom and all the Member States of the European Union. The United States signed the Convention in 2009. The Convention sets rules for when a court must assume jurisdiction or refuse to do so where commercial parties have entered into an exclusive choice of court agreement. It also provides for the recognition and enforcement of resulting judgments and 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.

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

1. provides a mechanism allowing a State to exclude specific matters from the application of the Convention;
2. allows a court recognizing a foreign judgment to reduce the amount of 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.

[78] 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 makes the Convention a useful tool for commercial parties doing business across borders.

[79] 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. Ontario and Saskatchewan have adopted implementing legislation based on the ULCC Uniform Act.

[80] *Action to be taken in Canada:* Governments to consider implementing the Convention.

**e. *Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (HCCH)***

[81] The Convention has 84 Contracting States, including Canada. It sets out mandatory rules for the service of judicial documents in civil or commercial matters from one Contracting State to another.

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

[82] The Special Commission on the practical operation of the Convention met from July 2 to 5, 2024, and adopted several Conclusions and Recommendations as well as practical tools to assist with the implementation and operation of the Convention. Canada participated in the Special Commission meeting and is participating in the work resulting from this meeting.

[83] Although the Convention has applied throughout Canada since 1989 and although provincial and territorial governments agreed to Canada's accession, it was not implemented in a uniform and coordinated manner. Each jurisdiction implemented the Convention by amending its rules of civil procedure. In recent years, the Convention's application has increasingly been the object of litigation in Canada. In some instances, the Convention has been applied in a manner that is inconsistent with Canada's international obligations. The Uniform Rules on Service in a Contracting State to the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (Uniform Rules), adopted by the ULCC in November 2015 and recommended to jurisdictions for adoption, were developed in response to recent case law. Alberta, Saskatchewan, and Manitoba have amended their rules of civil procedure based on the Uniform Rules.

[84] *Action to be taken in Canada:* Continue providing information regarding the application of the Convention. Coordinate the exchange of information among Canadian Central Authorities to harmonize Canadian practice. Participate in the work resulting from the meeting of the Special Commission. Governments to consider amending their rules of civil procedure based on the Uniform Rules.

**f. *Model Law on Cross-border Recognition and Enforcement of Insolvency-related Judgments (UNCITRAL)***

[85] UNCITRAL adopted the Model Law on Cross-border Recognition and Enforcement of Insolvency-related Judgments in July 2018. The Model Law aims at promoting cross-border insolvency coordination and the effectiveness of court orders in foreign jurisdictions. In developing the Model Law, UNCITRAL considered several issues including the types of judgments that should be covered, procedures for recognition, and grounds for refusing recognition. Canada's objectives were to ensure that there would be no inconsistency between the project and existing provincial and territorial legislative frameworks on the recognition and enforcement of foreign judgments and to promote the recognition of Canadian judgments abroad.

[86] *Action to be taken in Canada:* Consult stakeholders and provincial and territorial governments to assess interest in the adoption of the Model Law.

## 2. MEDIUM PRIORITY

### a. *Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (HCCH)*

[87] The Evidence Convention has 66 Contracting States including Canada's major trading partners. It seeks to facilitate and streamline the procedures for taking evidence abroad in civil or commercial matters by providing for the taking of evidence by means of Letters of Request and by diplomatic or consular agents and commissioners. It also establishes a Central Authority mechanism in each Contracting State to facilitate the transmission and processing of such requests.

[88] The Special Commission on the practical operation of the Convention met from July 2 to 5, 2024, and adopted several Conclusions and Recommendations as well as practical tools to assist with the implementation and operation of the Convention. Canada participated in the Special Commission meeting and is participating in the work resulting from this meeting.

[89] *Action to be taken in Canada:* Consult provincial and territorial governments to assess interest in the Convention. Consider how the Convention could be implemented in Canada. Participate in the work resulting from the meeting of the Special Commission.

## C. INDIVIDUAL AND FAMILY LAW

### 1. HIGH PRIORITIES

#### a. *Status of Children Project (HCCH)*

[90] In March 2023, CGAP mandated the establishment of a Working Group on private international law matters related to legal parentage, including legal parentage resulting from an international surrogacy arrangement. It directed that the group first explore provisions for a single instrument so that the group could inform CGAP further on policy considerations in relation to the scope and content of such instrument, including on the feasibility of reaching consensus, while allowing it to explore, later and if necessary, the possibility of two instruments. CGAP noted that the aim of any new instrument would be to provide greater predictability, certainty, and continuity of legal parentage in international situations for all persons concerned, considering their human rights, including, for children, those in the *United Nations Convention on the Rights of the Child*.

[91] During its first meeting in November 2023, the Working Group mostly focused its discussions on possible rules for the recognition of judicial decisions and on the extent to

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

which the same or different rules could be applied to various scenarios of establishment, contestation, or termination of legal parentage. The Working Group also had a general discussion on possible rules on public documents concerning legal parentage (e.g. birth certificates).

[92] At its second meeting, in April 2024, the Working Group discussed draft provisions on possible rules on the recognition of judgments on legal parentage, the scope of such recognition, and the grounds for refusal of recognition. The Group also had a preliminary discussion on the desirability and feasibility of including safeguards/standards (e.g. the eligibility and consent of the surrogate mother, the presence of a genetic connection between the child and one of the intended parents, the access of the child to information on their origins) for different case scenarios and on how these could be included in an instrument (as part of a definition, as conditions for recognition or grounds of refusal, as general obligations, as part of an opt-in/opt-out mechanism, or by the acceptance of accessions, objections and reservations).

[93] *Action to be taken in Canada:* Participate in the Working Group and consult with provincial and territorial governments as needed.

### **b. *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (HCCH)***

[94] The *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (Convention) provides the legal framework for cross-border recognition and enforcement, establishment, and modification of maintenance orders and agreements. It also provides a framework for administrative cooperation by requiring the designation of a Central Authority for each Contracting State and, for federal states such as Canada, by allowing the designation of a Central Authority for each territorial unit (i.e. a province or territory in Canada) to which the Convention has been extended. The text of the Convention, Explanatory Report, and practical documents are available on the HCCH website.

[95] The Convention entered into force internationally on January 1, 2013. There are currently 52 Contracting Parties to the Convention including the United States of America and the European Union (except Denmark) whose approval of the Convention binds its Member States.

[96] Implementing legislation was adopted in three provinces: Manitoba (*The International Support and Family Maintenance (Hague Convention) Act* (June 2022)), Ontario (*International Recovery of Child Support and Family Maintenance Convention*

## UNIFORM LAW CONFERENCE OF CANADA

*Act, 2023 (June 2023)), and British Columbia (Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act, 2022, (March 2022)).*

[97] Although the subject matter of the Convention falls primarily under the jurisdiction of the provinces and territories, amendments to the federal *Divorce Act* were also necessary to implement the Convention. These amendments came into force on February 1, 2024.

[98] On October 27, 2023, Canada ratified the Convention and extended the application of the Convention to Ontario and Manitoba. The Convention entered into force for these two provinces on February 1, 2024. On November 27, 2023, Canada deposited a declaration extending the application of the Convention to British Columbia. The Convention entered into force for British Columbia on March 1, 2024.

[99] *Action to be taken in Canada:* Continue working with provincial and territorial governments on the implementation of the Convention.

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

[100] The *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* (Child Protection Convention) was adopted in 1996. It establishes private international law rules that apply to a variety of cross-border matters involving the protection of children including the following: parental responsibility and its delegation; rights of custody and access; 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; child welfare issues including 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 Child Protection Convention came into force internationally in January 2002, and it has 54 Contracting States, including all 27 States of the European Union, Australia, Switzerland, and the United Kingdom. The ULCC adopted a Uniform Act to implement the Convention in 2001 and a revised Uniform Act in 2019.

[101] On May 23, 2017, Canada signed the Child Protection Convention. It was implemented federally as part of a package of amendments to the *Divorce Act* (S.C. 2019, c. 16). If the Convention is ratified by Canada, these amendments would be brought into force to coincide with the coming into force of the Convention for Canada.

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

[102] The Special Commission on the Practical Operation of the Convention met in October 2023 and adopted several Conclusions and Recommendations. Canada participated in the Special Commission meeting and is participating in the work resulting from this meeting, including the development of practical tools to assist with the implementation and application of the Convention. In addition, Canada participated in informal meetings to finalize a document titled, “The Application of the 1996 Child Protection Convention to Unaccompanied and Separated Children”. This document was recently submitted to HCCH member States for approval.

[103] *Action to be taken in Canada:* Continue participating in the work resulting from the meeting of the Special Commission and continue working with provincial and territorial governments on the implementation of the Convention.

### **d. *Convention on the International Protection of Adults (HCCH)***

[104] The *Convention on the International Protection of Adults* came into force internationally in 2009 and has 16 Contracting States. Its purpose is to resolve private international law issues relating to the international protection of adults who, by reason of an impairment or insufficiency of their personal faculties, are not able to protect their interests. It does this by harmonizing private international law rules applicable to the protection of the person or the property of these adults and by establishing a structure for effective co-operation on such cases between Contracting States.

[105] The ULCC adopted a Uniform Act to implement the Convention in 2000 and a revised uniform act in 2019. In 2016, the ULCC adopted the Uniform Interjurisdictional Recognition of Substitute Decision-Making Documents Act, which deals with the recognition of documents granting powers of representation – a matter also covered by the Convention. The Uniform Act provides two options to deal with the question of applicable law, one of which is consistent with the Convention.

[106] In November 2022, Canada attended the first meeting of the Special Commission on the practical operation of the Convention. One of the main outcomes of the meeting was the adoption of practical tools to assist with the implementation and application of the Convention.

[107] In 2019, the Department of Justice set up an informal FPT group, which has since met on a few occasions to examine the Convention and its benefits. This group was consulted prior to the Special Commission meeting and as part of Canada's participation in the HCCH Working Group that developed the above-mentioned tools to facilitate the application of the Convention.



[108] *Action to be taken in Canada:* Continue work on implementation with other federal departments and provincial and territorial governments.

**e. *Convention on the Civil Aspects of International Child Abduction (HCCH)***

[109] The *Convention on the Civil Aspects of International Child Abduction* was the first HCCH Convention to be ratified by Canada and brought into force in all Canadian jurisdictions. The Convention provides for an expeditious remedy to obtain the return to the State of habitual residence of a child who in breach of custody rights has been removed to or who is retained in, another Contracting State. 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 103 Contracting States to the Convention.

[110] In Canada, there is a Central Authority in each provincial and territorial Department of Justice or Ministry of the Attorney General and a federal Central Authority located within the Legal Services Unit of the Department of Justice at Global Affairs Canada.

[111] Pursuant to Article 38 of the Convention, any State that was not a member of the HCCH when the Convention was concluded in 1980 may accede to it. However, for such accession to have effect between the acceding State and a Contracting State, it is necessary for the latter to declare its acceptance of the accession. Canada has yet to make decisions on the acceptance of the accessions to the Convention by the following 22 States: Armenia, Barbados, Bolivia, Botswana, Cabo Verde, Cuba, Gabon, Guatemala, Guinea, Guyana, Iraq, Jamaica, Kazakhstan, Lesotho, Nicaragua, Pakistan, the Philippines, the Russian Federation, Seychelles, Thailand, Tunisia and Zambia. The gathering of information regarding these States to inform Canada's decision on the acceptance of their accession continues in cooperation with the Federal Central Authority. Communication with the provinces and territories on the possible acceptance of these accessions will follow.

[112] The Special Commission on the Practical Operation of the Convention met in October 2023 and adopted several Conclusions and Recommendations. Canada participated in the Special Commission meeting and is participating in the work resulting from this meeting. Canada was also part of the steering committee for the Forum on Domestic Violence and the Operation of Article 13(1)(b) of the 1980 Child Abduction Convention, which took place in June 2024.

[113] *Action to be taken in Canada:* Continue participating in the work resulting from the meeting of the Special Commission and continue the acceptance of accessions process.

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

**f. Malta Conference on Cross-Frontier Child Protection and Family Law**

[114] Canada is preparing to attend the fifth Malta Conference on Cross-Frontier Child Protection and Family Law, in Malta, in September 2024. The Malta Process is a dialogue involving both States party to the Child Abduction, Child Protection, and Child Support Conventions and non-Contracting States whose legal systems are based on or influenced by Islamic law. It is aimed at improving co-operation in cross-border family law disputes involving children with a view to finding solutions in situations where the relevant international legal framework is not applicable.

[115] *Action to be taken in Canada:* Participate in the fifth Malta Conference.

**g. Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (HCCH)**

[116] 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 their 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 prevent the abduction, sale, and trafficking of children. Finally, it secures the recognition in Contracting States of adoptions made in accordance with the Convention. There are currently 106 States party to the Convention, including, since 1997, Canada where it applies in all the provinces and territories.

[117] Canada remains actively involved in the work of the HCCH resulting from the 2022 meeting of the Special Commission. It contributes to the work of the Working Group on the Financial Aspects of Intercountry Adoption. Canada is also involved in the sub-working group for the adaptation of the table on costs for use by federal states.

[118] At its March 2024 meeting, CGAP welcomed the publication of the *Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption* and the holding of the virtual workshop on post-adoption organized jointly by Canada and Colombia.

[119] *Action to be taken in Canada:* Continue participating in the work resulting from the meeting of the Special Commission.

**D. PROTECTION OF PROPERTY**

**1. HIGH PRIORITIES**

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

[120] The *Convention Providing a Uniform Law on the Form of an International Will* establishes the form of an international will which is recognized as valid in all Contracting States without reference to the private international law rules concerning the validity of wills.

[121] The Convention currently applies to 13 States, including Canada, where it has been extended to all jurisdictions apart from the Northwest Territories, Nunavut, and Québec. The adoption by these jurisdictions of implementing legislation, such as the ULCC Uniform Wills Act (2016), and the subsequent extension of the application of the Convention to them would allow a greater number of Canadians to benefit from the Convention.

[122] *Action to be taken in Canada:* Governments to consider implementing the Convention.

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

[123] The *Convention on the Law Applicable to Trusts and on their Recognition* provides rules to determine the law applicable to foreign trusts. It also governs the recognition of these trusts by Contracting States.

[124] The Convention is currently in force in 14 States, including Canada where it has been extended to all jurisdictions apart from Québec and the territories. The adoption of implementing legislation, such as the ULCC Uniform International Trusts Act (1987), by these jurisdictions and the subsequent extension of the application of the Convention to them would allow a greater number of Canadians to benefit from the Convention.

[125] *Action to be taken in Canada:* Governments to consider implementing the Convention.

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

**2. LOW PRIORITIES**

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

[126] The *Convention on the Return of Stolen or Illegally Exported Cultural Objects* was finalized 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 54 States party to the Convention.

[127] Model Provisions on State Ownership of Undiscovered Cultural Objects were 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 objects. Furthermore, the Model Provisions seek to facilitate the restitution of cultural objects in case of unlawful removal and the implementation of the Convention.

[128] The UNIDROIT Secretariat continues its efforts to promote the Convention and the Model Legislative Provisions in partnership with other intergovernmental organizations, such as UNESCO, with a view to protecting cultural objects and combating terrorism and transnational organized crime. Successful initiatives include the establishment in 2017 of an Informal Ratification Task Force as well as establishment of the 1995 UNIDROIT Convention Academic Project (UCAP) whose main objective is to promote a favourable legal environment for restitution or return of stolen or illegally exported cultural objects through knowledge sharing and dissemination of information about the Convention.

[129] *Action to be taken in Canada:* When requested, assist the Department of Canadian Heritage in consultations on the Convention.

**CONCLUSION**

[130] This report presented an overview of activities and priorities of the Department of Justice in international private law. It also covered FPT and external cooperation in international private law, the current work of international organizations involved in this area of the law, and the status of implementation of international private law instruments in Canada.

[131] Given the priorities laid out in this report, it is suggested that provinces and territories give particular attention to the implementation of the following conventions:

## UNIFORM LAW CONFERENCE OF CANADA

- *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (HCCH)
- *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (HCCH)
- *Convention on the International Protection of Adults* (HCCH)
- *United Nations Convention on the Use of Electronic Communications in International Contracts* (UNCITRAL)
- *United Nations Conventions on the Limitation Period in the International Sale of Goods and Protocol* (UNCITRAL)

(Conventions are not listed in any order of priority).

Given the number of active projects, the Department of Justice will need to prioritize its activities over the coming year and adjust to resource allocation constraints. Many of these projects will require input from experts in specific areas of the law. Practitioners, government experts, and stakeholders more generally are invited to provide comments or analyses on any of the work mentioned in this report.

[132] For the Department of Justice Canada, the ULCC is the key forum for facilitating the implementation of international private law conventions and model laws developed by the various international private law organizations. There are more than 20 Uniform Acts implementing such conventions and other international instruments that require provincial and territorial enactment for Canadians to benefit from them. The Department of Justice highly values the ULCC's constructive collaboration and support for the Department's work in international private law. This collaboration has been particularly fruitful in assisting with the uniform and effective implementation of international instruments. It simplifies the implementation process and ensures that Canada's international obligations are met.



# OVERVIEW CHART OF INTERNATIONAL PRIVATE LAW PRIORITIES

**ORGANIZATIONS:**

HCCH: 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 2024

Priority Level		International Commercial Law	Judicial Co-operation and Enforcement of Judgments	Individual and Family Law	Protection of Property
1	Negotiation	<ul style="list-style-type: none"> <li>• Technology-related disputes resolution and adjudication (UNCITRAL)</li> <li>• Model Law on Warehouse receipts (UNIDROIT and UNCITRAL)</li> <li>• Negotiable Cargo Documents (UNCITRAL)</li> </ul>	<ul style="list-style-type: none"> <li>• Judgments Project - jurisdiction (HCCH)</li> </ul>	<ul style="list-style-type: none"> <li>• Status of Children Project (HCCH)</li> </ul>	
	Implementation	<ul style="list-style-type: none"> <li>• Model Law on International Commercial Arbitration (1985, amended in 2006) (UNCITRAL) - Uniform International Commercial Arbitration Act (ULCC)</li> <li>• Convention on the Use of Electronic Communications in International Contracts (UNCITRAL)</li> <li>• Conventions on the Limitation Period in the International Sale of Goods and Protocol (UNCITRAL)</li> <li>• Convention on the International Settlement Agreements Resulting from Mediation (UNCITRAL)</li> <li>• 2018 Revised Model Law on International Commercial Mediation (UNCITRAL)</li> </ul>	<ul style="list-style-type: none"> <li>• Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (HCCH)</li> <li>• Convention on Choice of Court Agreements (HCCH)</li> <li>• Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (HCCH) and Rules on Service in other Contracting States to the Service Convention (ULCC)</li> <li>• Convention on the Recognition and Enforcement of Foreign</li> </ul>	<ul style="list-style-type: none"> <li>• Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (HCCH)</li> <li>• Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (HCCH)</li> <li>• Convention on the International Protection of Adults (HCCH)</li> </ul>	<ul style="list-style-type: none"> <li>• Convention providing a Uniform Law on the Form of an International Will (UNIDROIT)</li> <li>• Convention on the Law Applicable to Trusts (HCCH)</li> </ul>

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

Priority Level	International Commercial Law	Judicial Co-operation and Enforcement of Judgments	Individual and Family Law	Protection of Property
		Judgments in Civil or Commercial Matters (HCCH)		
	<b>Monitoring</b>	<ul style="list-style-type: none"> <li>Model law on cross-border recognition and enforcement of insolvency-related judgments (UNCITRAL)</li> </ul>	<ul style="list-style-type: none"> <li>Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (HCCH)</li> <li>Convention on the Civil Aspects of International Child Abduction (HCCH)</li> </ul>	
2	<b>Negotiation</b>	<ul style="list-style-type: none"> <li>Data transactions and automated contracts (UNCITRAL)</li> </ul>		
	<b>Implementation</b>	<ul style="list-style-type: none"> <li>Convention on the Settlement of Investment Disputes (ICSID) - (World Bank)</li> </ul>	<ul style="list-style-type: none"> <li>Convention Between Canada and the United Kingdom of Great Britain and Northern Ireland Providing for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters</li> <li>Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (HCCH)</li> </ul>	
	<b>Monitoring</b>			
3	<b>Implementation</b>	<ul style="list-style-type: none"> <li>Protocol to the Cape Town Convention on Matters Specific to Agricultural, Mining and Construction Equipment (UNIDROIT)</li> </ul>		
	<b>Monitoring</b>	<ul style="list-style-type: none"> <li>Convention on the Assignment of Receivables (UNCITRAL)</li> <li>Convention on Securities Held by Intermediaries (HCCH) - ULCC Uniform Act</li> <li>Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services (UNCITRAL)</li> </ul>		<ul style="list-style-type: none"> <li>Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT)</li> </ul>



# CANADIAN STATUS CHART OF INTERNATIONAL PRIVATE LAW INSTRUMENTS\*

Instrument	Implementation in Canada	International Status	Action
Model Law on International Commercial Arbitration (1985, amended in 2006) (UNCITRAL) - Uniform International Commercial Arbitration Act (ULCC)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (1987)</li> <li>- 1987 Uniform Act Enacted by all Canadian jurisdictions</li> <li>- 2014 revised Uniform Act is adopted by ULCC (form of arbitration agreements and interim measures)</li> <li>- Implementing legislation adopted in Ontario (2017), British Columbia (2018) and PEI (2023)</li> </ul>	<ul style="list-style-type: none"> <li>- Model Law adopted in 1985</li> <li>- Revisions to Model Law adopted in 2006 (form of arbitration agreements and interim measures)</li> <li>- 126 jurisdictions in 93 states have implemented the 1985 or the 2006 versions of the Model Law or legislation inspired from these texts</li> </ul>	<ul style="list-style-type: none"> <li>- Adoption of revised uniform act by interested jurisdictions</li> </ul>
Convention on the Use of Electronic Communications in International Contracts (UNCITRAL)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (2011)</li> <li>- Implementing legislation adopted in Ontario (2017) and Saskatchewan (2018)</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on March 1, 2013</li> <li>- 18 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Adoption of the uniform act by interested jurisdictions</li> </ul>
Conventions on the Limitation Period in the International Sale of Goods and Protocol (UNCITRAL)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (1998)</li> <li>- Implementing legislation adopted in Nunavut (2003) and Ontario (2017)</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on August 1, 1988</li> <li>- 30 States party (Convention)</li> <li>- 23 States party (Convention as amended by the Protocol)</li> </ul>	<ul style="list-style-type: none"> <li>- At the appropriate time, follow-up on consultations with provinces and territories</li> <li>- Consideration by the federal government of adopting implementing legislation</li> <li>- Adoption of the uniform act by interested jurisdictions</li> </ul>
Convention on Independent Guarantees and Stand-by Letters of Credit (UNCITRAL)		<ul style="list-style-type: none"> <li>- Entered into force on January 1, 2000</li> <li>- 8 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Develop a uniform act and commentaries</li> </ul>
Convention on International Commercial Settlement Agreements Resulting from Mediation (UNCITRAL)		<ul style="list-style-type: none"> <li>- Adopted December 2018</li> <li>- 14 States party and 45 signatory States</li> </ul>	<ul style="list-style-type: none"> <li>- Consult stakeholders on Canada's interest in becoming party to the Convention and adopting revisions to the Model Law.</li> </ul>

<b>Instrument</b>	<b>Implementation in Canada</b>	<b>International Status</b>	<b>Action</b>
2018 revised Model Law on International Commercial Mediation (UNCITRAL)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (2005) for the 2002 Model Law on International Commercial Conciliation (UNCITRAL) was adopted in Nova Scotia (2005) and Ontario (2010)</li> </ul>	<ul style="list-style-type: none"> <li>- 2002 Model Law was revised in 2018</li> <li>- 46 jurisdictions in 33 States have adopted legislation based on or influenced by the Model Law</li> </ul>	<ul style="list-style-type: none"> <li>- Consult stakeholders on Canada's interest in becoming party to the Convention and adopting revisions to the Model Law</li> </ul>
Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID) (World Bank)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (1998)</li> <li>- Enacted by Canada (2008), Ontario (1999), British Columbia, Newfoundland and Labrador, Nunavut, Saskatchewan (2006), Northwest Territories (2009) and Alberta (2013)</li> <li>- Applicable in Canada since December 1, 2013</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on October 14, 1966</li> <li>- 158 States party</li> <li>- Ratified by Canada on November 1, 2013</li> </ul>	<ul style="list-style-type: none"> <li>- Continue to seek provincial and territorial implementation of the Convention.</li> </ul>
Convention on International Interests in Mobile Equipment and Aircraft Protocol (UNIDROIT)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (2002)</li> <li>- Entered into force in Canada on April 1, 2013, and application extended to all Canadian jurisdictions</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force March 1, 2006</li> <li>- 86 Contracting Parties - Convention</li> <li>- 83 Contracting Parties - Protocol</li> </ul>	<ul style="list-style-type: none"> <li>- Monitor the application of the Convention and Protocol in Canada and take appropriate action as necessary</li> </ul>
Convention on the Assignment of Receivables in International Trade (UNCITRAL)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (2007)</li> </ul>	<ul style="list-style-type: none"> <li>- Adopted in 2001</li> <li>- Not in force</li> <li>- 5 ratifications – accessions required to enter into force</li> <li>- 2 accessions</li> </ul>	<ul style="list-style-type: none"> <li>- Monitor ratification developments</li> </ul>
Convention on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary (HCCH)		<ul style="list-style-type: none"> <li>- In force in 3 States since April 1, 2017</li> </ul>	<ul style="list-style-type: none"> <li>- None at this time</li> </ul>
Convention on International Bills of Exchange and International Promissory Notes (UNCITRAL)		<ul style="list-style-type: none"> <li>- Adopted in 1988</li> <li>- Not in force</li> <li>- 10 ratifications – accessions required to enter into force</li> <li>- 5 accessions</li> <li>- Signed by Canada on December 7, 1989</li> </ul>	<ul style="list-style-type: none"> <li>- None at this time</li> </ul>

<b>Instrument</b>	<b>Implementation in Canada</b>	<b>International Status</b>	<b>Action</b>
Convention on International Financial Leasing (UNIDROIT) Convention on International Factoring (UNIDROIT)	- ULCC Uniform Act (1995)	- Entered into force on May 1, 1995 - 11 States party (Convention on International Financial Leasing) - 9 States party (Convention on International Factoring) -	- 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 - 172 States party	- None at this time
Model Law on Electronic Commerce (UNCITRAL)	- ULCC Uniform Act (1999) - Enacted by all Canadian jurisdictions	- Adopted in 1996 - 170 jurisdictions in 87 States have adopted legislation based on or influenced by the Model Law	- 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 - 97 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 - 63 jurisdictions in 60 States have adopted legislation based on, or influenced by, the Model Law	- Provide information when requested
Model Law on Identity Management and Trust Services (UNCITRAL)		- Adopted in 2022	- Consult Canadian jurisdictions on interest in adopting this Model Law

<b>Instrument</b>	<b>Implementation in Canada</b>	<b>International Status</b>	<b>Action</b>
Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (HCCH)	- Entered into force in Canada on January 11, 2024	- Entered into force on January 24, 1965 - 127 States party - Deposit of Canada's instrument of accession on May 12, 2023	- Monitor implementation and continue to provide information and respond to requests regarding the application of the Convention
Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (HCCH)	- Entered into force in Canada on May 1, 1989 - Application extended to all Canadian jurisdictions	- Entered into force on February 10, 1969 - 84 States party	- Continue to provide information and respond to requests regarding the application of the Convention - Coordinate the exchange of information among Canadian Central Authorities
Convention on Choice of Court Agreements (HCCH)	- ULCC Uniform Act adopted in 2010 - Implementing legislation adopted in Ontario (2017) and Saskatchewan (2018)	- Entered into force on November 10, 2015 - 35 Contracting parties	- Coordinate federal implementation analysis and promote implementation in provinces and territories
Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (HCCH)		- Entered into force as of September 1, 2023 - 30 Contracting Parties	- Monitor interest and developments in other countries
Convention between Canada and the United Kingdom of Great Britain and Northern Ireland providing for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters (Bilateral)	- In force in Canada and application extended to all Canadian jurisdictions except Québec and Nunavut	- Entered into force in 1984	- Extend application when requested
Canada-France Convention on Recognition and Enforcement of Judgments in Civil and Commercial Matters and on Mutual Legal Assistance in Maintenance (Bilateral)	- ULCC Uniform Act (1997) - Implementing legislation adopted in Saskatchewan (1998), Ontario (1999) and Manitoba (2000)	- Not in force - Convention signed by Canada on June 10, 1996	- None at this time
Model Law on Cross-border Recognition and Enforcement of Insolvency-related Judgments (UNCITRAL)		- Adopted in 2018	- Consult stakeholders to assess interest in the adoption of the Model Law given the existing Canadian legislative framework.
Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (HCCH)		- Entered into force on March 18, 1970 - 66 Contracting Parties	- Conduct an analysis with a view to determining whether there is domestic interest in working toward implementation. - Participate in the work or initiatives resulting from the meeting of the Special Commission.

<b>Instrument</b>	<b>Implementation in Canada</b>	<b>International Status</b>	<b>Action</b>
Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (HCCH)	<ul style="list-style-type: none"> <li>- Entered into force in Canada on February 1, 2024</li> <li>- Extended and in force in Ontario and Manitoba on February 1, 2024, and in British Columbia on March 1, 2024</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on January 1, 2013</li> <li>- 52 Contracting Parties including the United States of America and the European Union except Denmark</li> </ul>	<ul style="list-style-type: none"> <li>- Continue work on implementation with FPT partners</li> <li>- Actively promote implementation of the Convention in Canada</li> </ul>
Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (HCCH)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (2020)</li> <li>- CCSO – Family Justice Working Group on implementation</li> <li>- Federal implementing legislation adopted (provisions not yet in force) S.C. 2019 c. 16</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on January 1, 2002</li> <li>- 54 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Actively promote implementation of the Convention in Canada</li> </ul>
Convention on the International Protection of Adults (HCCH)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (2020)</li> <li>- Implementing legislation adopted in Saskatchewan (2005)</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on January 1, 2009</li> <li>- 16 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Actively promote implementation of the Convention in Canada</li> </ul>
Convention on the Civil Aspects of International Child Abduction (HCCH)	<ul style="list-style-type: none"> <li>- Entered into force in Canada on December 1, 1983</li> <li>- Application extended to all Canadian jurisdictions</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on December 1, 1983</li> <li>- 103 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Continue the acceptance of accessions process</li> <li>- Continue to support the proper operation of the Convention</li> </ul>
Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (HCCH)	<ul style="list-style-type: none"> <li>- ULCC Uniform Act (1996)</li> <li>- Entered into force in Canada on April 1, 1997</li> <li>- Application extended to all Canadian jurisdictions</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on May 1, 1995</li> <li>- 106 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Continue to support the proper operation of the Convention</li> </ul>

<b>Instrument</b>	<b>Implementation in Canada</b>	<b>International Status</b>	<b>Action</b>
Convention Providing a Uniform Law on the Form of an International Will (UNIDROIT)	<ul style="list-style-type: none"> <li>- Entered into force in Canada on February 9, 1978</li> <li>- Application extended to 10 Canadian jurisdictions: Alberta, Manitoba, Newfoundland and Labrador, Ontario (1978), Saskatchewan (1982), Prince Edward Island (1995), New Brunswick (1997), Nova Scotia (2001), British Columbia (2014), Yukon (2022)</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on February 9, 1978</li> <li>- 13 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Consult with jurisdictions that have not yet implemented the Convention</li> </ul>
Convention on the Law Applicable to Trusts and on their Recognition (HCCH)	<ul style="list-style-type: none"> <li>- Entered into force in Canada on January 1, 1993</li> <li>- Application extended to 9 Canadian jurisdictions: Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Prince Edward Island (1993), Manitoba, Saskatchewan (1994), Nova Scotia (2006), Ontario (2018)</li> </ul>	<ul style="list-style-type: none"> <li>- Entered into force on January 1, 1992</li> <li>- 14 States party</li> </ul>	<ul style="list-style-type: none"> <li>- Consult with the jurisdictions that have not yet implemented the Convention</li> </ul>
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"> <li>- Entered into force on July 1, 1998</li> <li>- 54 States party (Convention)</li> </ul>	<ul style="list-style-type: none"> <li>- When requested, assist the Department of Canadian Heritage in consultations on the Convention</li> </ul>

**PROVISIONAL SCHEDULE OF INTERNATIONAL PRIVATE LAW MEETINGS**

August 2024 – August 2025

Meeting		Dates	Format
1.	UNCITRAL – Working Group III: ISDS Reform	23-27 September 2024	Vienna
2.	HCCH – Fifth Malta Conference on Cross-Frontier Child Protection and Family Law	24-27 September 2024	Malta
3.	UNCITRAL – Working Group II: Dispute Resolution	30 September – 4 October 2024	Vienna
4.	HCCH – Working Group on the 1996 Convention	2 and 23 October 2024	Online
5.	HCCH – Working Group on Jurisdiction	28 October – 1 November 2024	Tokyo
6.	HCCH – Working Group on Parentage	4-8 November 2024	The Hague
7.	UNCITRAL – Working Group IV: Electronic Commerce	18-22 November 2024	Vienna
8.	UNCITRAL – Working Group VI: Negotiable Multimodal Transport Documents	9-13 December 2024	Vienna
9.	UNCITRAL – Working Group V: Insolvency Law	16-20 December 2024	Vienna
10.	HCCH – Working Group on Jurisdiction	10-14 February 2025	The Hague
11.	UNCITRAL – Working Group III: ISDS Reform	20-24 January 2025	Vienna

Meeting		Dates	Format
12.	UNCITRAL – Working Group II: Dispute Resolution	3-7 February 2025	New York
13.	HCCH – Council on General Affairs and Policy	4-7 March 2025	The Hague
14.	UNCITRAL – Working Group VI: Negotiable Multimodal Transport Documents	17-21 March 2025	New York
15.	UNCITRAL – Working Group IV: Electronic Commerce	24-28 March 2025	New York
16.	HCCH – Working Group on Parentage	7-11 April 2025	The Hague
17.	UNCITRAL – Working Group III: ISDS Reform	7-11 April 2025	New York
18.	UNCITRAL – Working Group V: Insolvency Law	12-16 May 2025	New York
19.	UNIDROIT – Governing Council	May or June 2025 (TBC)	Rome
20.	UNCITRAL – Annual Session	7-25 July 2025	Vienna



**DEPARTMENT OF JUSTICE CANADA - CONSTITUTIONAL, ADMINISTRATIVE  
AND INTERNATIONAL LAW SECTION**

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