

附件一 香港特區

Hong Kong Special Administrative Region of the People's Republic of China

Questionnaire concerning the practical operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

(Including questions on implementation of the Hague 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)

"We" in the following replies refers to the Central Authority of HKSAR.

The role and functions of Central Authorities

1. Have any difficulties arisen in practice in achieving effective communication with other Central Authorities? In particular, how are "modern rapid means of communication," used by your Central Authority in order to expedite communications, bearing in mind the requirements of confidentiality?

There are so far no particular difficulties in communicating with other Central Authorities. Communication by emails (accompanied by long distant calls when necessary) is considered a very effective way in prompting quick response.

2. Are there any other problems of co-operation with other Central Authorities to which you wish to draw attention?

There are so far no particular problems in co-operating with other Central Authorities.

3. Does your Central Authority maintain a website and / or a brochure / information pack? (Please provide the web address or check if the Information on the Hague Conference website is accurate, see < www.hcch.net > -> Child Abduction Section -> Links to related websites). If so, does the website and / or brochure / information pack contain the following information as recommended by the Special Commission of 2001:

We maintain a website :

http://www.doj.gov.hk/childabduct/index.html

- a) the other Contracting States in relation to whom the Convention is in effect; Yes
b) the means by which a missing child may be located; Yes
c) the designation and contact details for the Central Authority; Yes
d) application procedures (for return and access), documentary requirements, any standard forms employed and any language requirements; Yes

- e) *details, where applicable, of how to apply for legal aid or otherwise for the provision of legal service;*
Yes
- f) *the judicial procedures, including appeals procedures, which apply to return applications;*
Yes
- g) *enforcement options and procedures for return and access orders;*
Yes
- h) *any special requirements which may arise in the course of the proceedings (e.g. with regard to matters of evidence);*
Yes
- i) *Information concerning the services applicable for the protection of a returning child (and accompanying parent, where relevant), and concerning applications for legal aid for, or the provision of legal services to, the accompanying parent on return;*
Yes
- j) *information, if applicable, concerning liaison judges?"*
No

4. What measures does your Central Authority undertake to encourage voluntary returns and amicable resolutions, and how do you seek to ensure that these negotiations do not lead to undue delay in return proceedings? [Note: Questions 20-22 deal with the subject of mediation.]

As soon as the abducting parent is located, we will ascertain whether he/she is willing to voluntarily return the child to the requesting state. Apart from informing the abducting parent of the legal provisions that require him/her to return the child, we will also provide counselling and social services to him/her and to the child where appropriate. If the abducting parent indicates willingness to do so, we will take the following steps:

- **We will inform the left-behind parent and ask him/her insofar as practicable to come to Hong Kong to collect the child.**
- **We will arrange for an urgent hearing before the court which is attended by us (as the Central Authority), the left-behind parent and the abducting parent, if available.**
- **In the court hearing, we will seek a court order for the return of the child on the basis of consent of the abducting parent. In cases where the left-behind parent cannot attend the court hearing, we will also submit to the court for its approval of the proposed practical arrangements for the return of the child such as the details of the departure flight, the person to accompany the child to the airport, the person to pick up the child in the State of habitual residence etc. to ensure**

the safe return of the child.

In our experience, the above measures would not lead to delay. Once the abducting parent is located we will issue Hague proceedings, arrange for an early hearing date and prepare affidavits etc in accordance with our domestic rules that govern child abduction proceedings. The progress of the Hague proceedings would not be held in abeyance while ascertaining the abducting parent's wishes. If the abducting parent is willing to co-operate, the voluntary return will be embodied in a consent order. If he/she wishes to contest the Hague proceedings, the case will be decided by the court.

5. In accordance with the Guide to Good Practice - Part I on Central Authority Practice, has your Central Authority shared its expertise with another Central Authority or benefited from another Central Authority sharing its expertise with your Central Authority?²

We have shared our expertise with other Central Authorities through case dealings and do benefit from other Central Authorities from expertise sharing.

Court proceedings

6. Do you have any special arrangements whereby jurisdiction to hear return applications is concentrated in a limited number of courts or judges? Are such arrangements being contemplated?

Child abduction cases are dealt with at the Court of First Instance of the High Court of HKSAR.

The relevant Hong Kong legislation restricts jurisdiction to the High Court. Accordingly, at first instance, only a High Court judge may hear an application for the return of a child. Only those judges with family law experience are allocated cases under the Convention. Two judges have been assigned to hear urgent preliminary applications under the Convention. All substantive hearings are restricted to those two judges or in case they are not available, other judges in the High Court with family law experience. In short, all Hague Convention cases are dealt with in one court by a small pool of experienced judges.

7. What measures exist to ensure that Hague applications are dealt with promptly (Article 7) and expeditiously (Article 11)? In particular:

a) Are there set timetables at both trial and appellate level to ensure the speedy determination of return applications?

Although there are no set timetables at both trial and appellate level, judges hearing the Hague applications will deal with the applications expeditiously with a view to concluding all proceedings, including the proceedings in the appellate level, within 6 weeks of the institution of the proceedings.

b) What special measures / rules exist to control or limit the evidence (particularly oral evidence) which may be admitted in Hague proceedings?

Our domestic rules on Hague proceedings provide for the exchange of affidavit evidence only. Oral evidence is generally not allowed and if allowed, it is at the discretion of the judge on a case by case basis. Relevant authorities on the prompt and summary nature of Hague proceedings and on the principle that oral evidence is allowed only in exceptional circumstances will be submitted to the court where necessary.

8. What measures exist to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers? Do such measures lead to delays?

When we receive a request for return from a Central Authority, if it appears to us that the left-behind parent may be eligible for legal aid or upon request, we will provide the left-behind parent or his/her Central Authority information about the legal aid services in Hong Kong. If the left-behind parent wishes to apply for legal aid, we will advise or refer him/her to apply to the Legal Aid Department for legal aid. If the left-behind parent is granted legal aid, the Legal Aid Department will assign a solicitor and/or a counsel to represent him/her in the Hague proceedings.

Our legal aid services are funded by the government and are available to any person, resident or non-resident, involved in legal proceedings instituted within jurisdiction. Hague proceedings are instituted in the Court of First Instance and as such are covered by legal aid.

Applicants for legal aid are required to pass both the merits and means tests. Merits test is usually not a problem in this type of cases but there could be difficulties with the means test. Regarding means test, the Legal Aid Department has to be satisfied that the applicant, who may be the left-behind parent or the abducting parent, and who may be resident in Hong Kong or making an application from abroad, is financially eligible for legal aid before granting legal aid. If the applicant's financial resources exceed the upper financial limit for legal aid, legal aid will be refused. Where legal aid is granted, the applicant may be required to pay a contribution towards the costs of the proceedings, depending on the amount of his/her financial resources. Legal aid will not be granted solely for the purpose of providing legal advice.

The above arrangement would not result in delay. When we receive a request for return from a Central Authority, we will take initial steps including ascertaining from the immigration authority as to whether the child is indeed within jurisdiction and if so, apply for a stop order from the court to prevent further removal of the child from jurisdiction pending Hague proceedings. After these initial steps have been taken, we then advise the applicant of the options available to him/her in pursuing the Hague proceedings. If the applicant wishes to instruct private lawyer, we will provide list of firms experienced in handling these matters. If the applicant wishes to apply for legal aid, we will provide information to enable the applicant to apply for legal aid. Where a private lawyer is instructed by the parent or assigned

by the Legal Aid Department, we will then transfer the case to the private lawyer.

9. In what circumstances and by what procedures / methods are children heard in Hague proceedings? In particular how will a determination be made as to whether a child objects to return, and in what circumstances might judges refuse to return a child based on his or her objections?

The abducting parent has to first raise the child's objection as a defence in the Hague proceedings. The court would then determine it according to the principles set out in Article 13 as interpreted in decided cases, i.e. the child must have sufficient age and maturity and the child must express a valid objection to being returned. Depending on the circumstances, and invariably if both contesting parties agree, the court may see the child in chambers. Again, depending on the circumstances, this may or may not be in the presence of the contesting parties. The court will insist, however, on a neutral party being present (for example, a social welfare officer) and, before making any decision, will advise the contesting parties in general terms of what took place during the meeting. As a general statement, however, it can be said that our courts are reluctant to see a child, especially a younger child, unless there is good reason.

As to the views of the objecting child, the court can also seek the assistance of the Official Solicitor to represent the child to facilitate a determination as to whether a child objects to being returned pursuant to Article 13.

10. How has Article 20 of the Convention been applied in your State? Are you aware of an increase in the use of this Article, bearing in mind that the Statistical Survey of all cases in 1999 found no case in which this exception to return was successfully invoked?

We have not come across a case raising Article 20 as a defence and are not aware of an increase in the use of this Article.

Legal issues and interpretation of key concepts

11. Please comment on any Constitutional procedures or principles which make it difficult to implement the Hague Convention fully.

We have not encountered any difficulty in implementing the Hague Convention because of the Constitutional procedures or principles.

12. Are there any important developments in legislation, case law or procedural law relevant to the operation of the 1980 Convention to which you wish to draw attention? Please could you provide us with an electronic copy of relevant legislation if possible?

There are no important developments to which we wish to draw attention.

13. Please indicate any important developments since the Special Commission of 2001 in your jurisdiction in the interpretation of Convention concepts, in particular the following:

- a) rights of custody (Articles 3 a) and 5 a));
There are no important developments.
- b) habitual residence (Articles 3 a) and 4);
There are no important developments.
- c) rights of access (Article 5 b));
There are no important developments.
- d) the actual exercise of rights of custody (Articles 3 b) and 13(1) a));
There are no important developments.
- e) the settlement of the child in his / her new environment (Article 12(2));
There are no important developments.
- f) the one year period for the purposes of Article 12;
There are no important developments.
- g) consent or acquiescence to the removal or retention of the child (Article 13(1) a));
There are no important developments.
- h) grave risk (Article 13(1) b));
There are no important developments.
- i) exposure to physical or psychological harm (Article 13(1) b));
There are no important developments.
- j) intolerable situation (Article 13(1) b));
There are no important developments.
- k) the child objects to being returned (Article 13(2)); (see also question 9)
There are no important developments.
- l) fundamental principles relating to the protection of human rights and fundamental freedoms (Article 20). (See also question 10)
There are no important developments.

Direct international judicial communication

14. Please describe any developments in the area of direct International judicial communication. If your country has responded to the 2002 Questionnaire on direct international judicial communication please describe any developments in this area since your response was made. (The Questionnaire is available on the website of the Hague Conference at: < www.hcch.net > → Child Abduction Section → Questionnaire & Responses).

There are no significant developments.

Immigration / asylum / refugee matters

15. Have you any experience of cases in which immigration / visa questions have arisen as to the right of the child and / or the abducting parent to re-enter the country from which the child was abducted or unlawfully retained? If so, how have such issues been resolved?

We do not have experience of such cases.

16. Have you any experience of cases involving links between asylum or refugee applications and the 1980 Convention? In particular, please comment on any cases in which the respondent in proceedings for the return of a child has applied for asylum or refugee status (including for the child) in the country in which the application for return is to be considered. How have such cases been resolved?

We do not have experience of such cases.

17. Have you any experience of cases in which immigration / visa questions have affected a finding of habitual residence in the State from which the child was removed or retained?

We do not have experience of such cases.

18. Have you any experience of cases in which immigration / visa questions have inhibited the exercise of rights of access?

We do not have experience of such cases.

Criminal proceedings

19. Please comment on any issues that arise, and how these are resolved, when criminal charges are pending against the abducting parent in the country to which the child is to be returned.

For cases where the abducting parent is to return the child to our jurisdiction, there is not any one case known to us that there were criminal charges pending against the abducting parent. If there is such a case, we would liaise with the police and the social welfare agencies to ensure that the child is well taken care of on return.

For cases where the abducting parent is to return the child to the requesting jurisdiction, we will liaise with their Central Authority to ensure that the prompt and safe return of the child will not be affected by any pending criminal charges against the abducting parent.

Mediation

20. Are there any programmes of mediation available in your State for parents or other persons involved in Hague Convention cases? Please describe these, indicating *inter alia* the methods employed to ensure that mediated agreements are enforceable and respected by the parties, as well as the availability of, and training opportunities for, international mediators.

We do not have any special programmes of mediation available for parents or other

persons involved in Hague Convention cases. However, mediation service is available if both parents or other persons involved are within jurisdiction. The parties can appoint a mediator to resolve their dispute. They may choose any independent third party, including the family mediators registered with The Hong Kong International Arbitration Centre (HKIAC), as their mediator. HKIAC also provides training to family mediators and organizes mediation seminars.

The mediated agreement reached by the parties may be embodied in the court order in the proceedings under the Convention, if proceedings are instituted in parallel to the mediation. The order will then be enforceable in the court.

The parties may also reduce the mediated agreement into writing and signed the same as a formal agreement. The agreement will then be binding on both parties and has legal force as a contract.

21. How do you ensure that mediation procedures do not unduly delay proceedings for the return of the child?

Mediation should be conducted expeditiously. To avoid any delay, proceedings under the Convention should be instituted in parallel to the mediation. If mediation is successful, the terms reached in the mediation can be embodied in the order of the court.

22. Do you have any other comments relating to mediation in the context of the 1980 Convention either at a preventive stage or when a removal or retention has occurred?

We have no comments.

Training and education

23. Do you have any comments relating to how judicial (or other) seminars or conferences at the national, regional and international levels have supported the effective functioning of the Convention? In particular, how have the conclusions and recommendations of these seminars or conferences, (some of which are available on the website of the Hague Conference at: < www.hcch.net > → Child Abduction Section), had an impact on the functioning of the 1980 Convention?

We have no comments but we believe judicial seminars and conferences will support the effective functioning of the Convention.

24. Can you give details of any training sessions / conferences organised in your country, and the influence that such sessions have had?

Seminars are provided by the Central Authority to the relevant authorities within the government, such as the Social Welfare Department. Bodies responsible for continuing legal education would organise training sessions / seminars on this subject from time to time and a judge responsible for handling Hague cases would normally be invited to be the speaker. These training sessions are well received by

the attendees.

Ensuring the safe return of children where issues such as domestic violence and abuse are raised

25. Is the issue of domestic violence or abuse often raised as an exception to return in child abduction cases? What is the general approach of your courts to such cases and, in particular, how far do they investigate the merits of a claim that such violence or abuse has occurred?

The issue of domestic violence or abuse was raised occasionally as a defence to the application for return. The court will always consider the evidence of the parents and request reports to be prepared for consideration. If the circumstances warrant, the court may ask for investigation reports to be provided by the requesting state to investigate into the matter. The court will consider such reports in determining the merits of the claim and will consider the sufficiency and enforceability of any conditions to be imposed for alleviating the risk concerned.

26. What procedures and measures are in place in your State to secure the safe return of the child (and the accompanying parent, where relevant) where issues of (alleged) domestic violence or abuse are raised?

For cases where the abducting parent is to return the child to our jurisdiction, we will liaise with the police and the social welfare agencies to ensure that the child is well taken care of on return. The social welfare agencies will also provide the necessary supervision or assistance to the parents.

For cases where the abducting parent is to return the child to the requesting jurisdiction, we will alert their Central Authority of the issue of domestic violence or abuse and liaise with their Central Authority to ensure safe return of the child and provide necessary assistance to the parents, including, for example, imposition of a condition to ensure that there are legal proceedings on foot in the requesting state concerning the welfare of the children before they are returned.

27. To what extent are your courts entitled and prepared to employ "undertakings" (i.e. promises offered by, or required of the applicant) as a means of overcoming obstacles to the safe return of the child? Please describe the subject matter of undertakings required / requested.

Our courts would always be prepared to employ "undertakings" in appropriate circumstances. For example, in our first contested Hague case, cross-undertakings and mirror undertakings were given by both parents pending further adjudication by the court of the requesting state in respect of the child. The subject matters of the undertakings include further medical assessment of the child, the living condition of the child, the undertaking not to institute contempt or criminal proceedings against the abducting parent, condition to prevent harmful effect to the child's health etc.

28. Will your courts / authorities enforce or assist in implementing such undertakings

in respect of a child returned to your jurisdiction? Is a differentiation made between undertakings by agreement between the parties and those made at the request of the court?

Our courts / authorities would respect the undertakings made to the court of the requested country in respect of a child returned to our jurisdiction. We would as far as possible and subject to resources assist in implementing such undertakings.

Provided that the undertaking is made to the court or is embodied as part of the court order, there should not be a difference in its effect between an undertaking made by agreement or made at the request of the court.

29. To what extent are your courts entitled or prepared to seek or require, or as the case may be to grant, safe harbour orders or mirror orders (advance protective orders made in the country to which the child is to be returned)?

There has not been a need to seek or require these orders in the cases we have dealt with so far. We are not aware of any reason why our courts would not be entitled or prepared to seek or require these orders in appropriate circumstances. In a case decided in August 2004, our court held that it had the jurisdiction to make a mirror order at the request of the English Court and did make such an order.

30. Do you have any comments on the use of undertakings, mirror orders or safe harbour orders?

We do not have any comments.

31. Do you have any other comments relating to domestic violence or abuse in the context of the 1980 Convention?

We do not have other comments.

32. Are you aware of cases in which your authorities have refused to make or enforce an order in respect of a young child on the basis that an abducting parent who is the child's primary carer, refuses or is otherwise not in a position to return with the child?

Currently, we have such a potential case in which the parents are now negotiating for settlement. Other than this potential case, we are not aware of any other such cases.

Standard questionnaire for newly acceding States

33. If your State has acceded to the Convention have you filled out the standard questionnaire for newly acceding States? If so, have you any comments about the ease or otherwise of filling out this questionnaire? If not, can you explain why?

Not applicable.

34. Has your State found the responses to the standard questionnaire for newly

acceding States (available on the website of the Hague Conference at: < www.hcch.net > → Child Abduction Section → Standard questionnaire for newly acceding States) useful when considering whether or not to accept the accession of an acceding State? What additional information would be useful?

We found the responses very useful in our consideration of whether or not to accept the accession. We consider that the following additional information may also be useful:

- (a) **legal aid position and pro bono representation; and**
- (b) **how legal costs are charged generally.**

35. What measures, if any, do your authorities take, before deciding whether or not to accept a new accession (under Article 38), to satisfy themselves that the newly acceding State is in a position to comply with Convention obligations, and how do you ensure that this process does not result in undue delays?

We have so far based our decision on the prevailing state of acceptance by the international community. We would also consider the questionnaire completed by the acceding State if available before deciding to accept a new accession. It should be noted that under the Basic Law of the HKSAR, the accession to any international convention and acceptance of new acceding states are matters to be decided by the Central People's Government of the People's Republic of China.

The Guide to Good Practice

36. In what ways have you used the Guide to Good Practice – Part I on Central Authority Practice, Part II on Implementing Measures and Part III on Preventive Measures to assist in implementing for the first time, or improving the implementation or operation of, the Convention in your State?

We have used the Guide to Good Practice as reference in improving the implementation and operation of the Convention and as the basis for the preparation of an Office Manual. The Guide provides useful practical guidance to the relevant authorities.

37. How has the Guide to Good Practice assisted your State in making policy or practical decisions relating to the Implementation or operation of the Convention?

The Guide to Good Practice serves as a reference in our making of policy and practical decisions relating to the implementation and operation of the Convention.

38. How have you ensured that relevant authorities in your State have been made aware of, and have had access to, the Guide to Good Practice?

The relevant authorities in our jurisdiction are all aware of and have had access to the Guide to Good Practice posted in HCCH's website.

39. Do you have any comments concerning the Guide to Good Practice – Part III on

Preventive Measures including how best to publicise this Part of the Guide?

We have no comments on the Guide to Good Practice - Part III on Preventive Measures.

40. Please describe any developments in legislation, case law or practice relating to enforcement measures and transfrontier access / contact. If your country has responded to the Questionnaire on Enforcement Measures distributed in July 2004 or the Consultation Paper on Transfrontier Access / Contact distributed in January 2002 please describe any developments in legislation, case law or practice since your response was made. (The Questionnaire and Consultation Paper are available on the website of the Hague Conference at: < www.hcch.net > → Child Abduction Section → Questionnaire & Responses).

There are no developments worth mentioning in this respect since our response to the Questionnaire on Enforcement Measures in 2004.

41. Are there any particular matters which you would like to see included in a Guide to Good Practice on Transfrontier Access / Contact? (See "Transfrontier Access / Contact and the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction - Final Report" drawn up by William Duncan, Deputy Secretary General, Preliminary Document No 5 of July 2002 available at: < www.hcch.net > → Conventions → Convention 28 → Practical Operation Documents.)

We have no particular matters which we would like to include in the Guide.

42. Are there any other topics that you would like to see form the basis of future parts of the Guide to Good Practice in addition to those which are already published or are under consideration (these are: Part I on Central Authority Practice; Part II on Implementing Measures; Part III on Preventive Measures as well as enforcement measures and access / contact)?

We have no other topics that we would like to add to the Guide.

43. Do you have any other comments about any Part of the Guide to Good Practice?

We have no other comments on the Guide.

44. Can you list any examples of good practice not included in the Guides?

We have no examples to list.

Standardised consent form

45. The Permanent Bureau is consulting with States and relevant authorities with regard to developing a standardised or harmonised form for obtaining consent from holders of parental responsibility when a child leaves a State (see the Guide to Good Practice - Part III on Preventive Measures). Do you have any comments about the development of such a form? Or any suggestions as to what information such a form should / should not include?

The development of such a form for proof of consent is recommended. We would suggest that the form should contain the following information:

- (a) parents details;
- (b) child details;
- (c) identify the relevant custody or access order;
- (d) reason for the child to leave the State;
- (e) period of leave;
- (f) where the child will stay during the period of leave with contact details;
- (g) the exact agreed date of return; and
- (h) undertaking to return the child to the State.

Statistics and case management

46. Does your Central Authority maintain accurate statistics concerning the cases it deals with under the Convention, and does it submit annual returns of statistics to the Permanent Bureau in accordance with the forms established by the Permanent Bureau in consultation with Central Authorities? If not, please explain why.

We maintain accurate statistics of our cases, both incoming and outgoing cases under the Convention, and the Permanent Bureau has received from time to time such statistics in the established form.

47. Does your Central Authority use any special software for case management / statistical purposes? Would your Central Authority be interested in using the new iChild software which is currently being piloted in seven Central Authorities in six Contracting States?

We do not use any special software for case management / statistical purposes. We are interested in using the new iChild software if we consider it suitable for our purposes.

Publicity / debate concerning the Convention

48. Has the Convention given rise to (a) any publicity (positive or negative) in your country, or (b) any debate or discussion in your national Parliament or its equivalent?

Not that we are aware of.

49. Is the Convention having any negative effects which are causing concern?

Not that we are aware of.

50. By what methods do you disseminate information about the Convention?

The information about the Convention can be found in our website.

51. Could you provide a list (including contact details and web site addresses) of non-governmental organisations in your State which are involved in matters covered

by the 1980 and / or 1996 Conventions?

We are not aware of any non-governmental organization actively involved in such matters in the HKSAR but the Consulate General of the United States (Hong Kong and Macau) also provides information about the 1980 Convention (website address : <http://hongkong.usconsulate.gov/hkinfo/>)

Services provided by the Permanent Bureau

52. Please comment or state your reflections on services provided by the Permanent Bureau to assist the implementation and operation of the Convention, such as:

- a) INCADAT;
It provides very useful reference and is very user friendly.
- b) the Judges' Newsletter on International Child Protection;
It provides very useful reference.
- c) the bibliography of the Convention;
It serves as quick reference.
- d) the Child Abduction Section on the website of the Hague Conference;
It provides very useful reference.
- e) INCASTAT (the database for the electronic collection and analysis of statistics on the Convention, which is currently being developed);
We have no comments but we believe it will provide very useful reference.
- f) IChild (the electronic case management system designed by the Canadian software company WorldReach, which is currently being piloted by seven Central Authorities in six Contracting States).
We have not used it yet and hope that it will be very user friendly.
- g) support for national / international judicial (and other) seminars / conferences concerning the Convention;
We have no comments but we believe such support will greatly assist the Central Authorities in organising judicial seminars / conferences concerning the Convention.
- h) support for communications among Central Authorities, including maintenance of updated contact details.
It is very important to have such support in order to maintain the efficiency in implementing the Convention.

53. Have you any comments or suggestions concerning the activities in which the Permanent Bureau engages to assist in the effective functioning of the Convention?

We fully appreciate the Permanent Bureau's efforts in organizing conferences and special meetings as well as providing support and maintaining relevant materials

and updated information in its website for the effective operation of the Convention by the Central Authorities.

Compliance with the Convention

54. Are there any Contracting States with whom you are having particular difficulties in achieving successful co-operation? Please specify these difficulties.

There are so far no particular difficulties in co-operating with other Central Authorities.

55. Are you aware of situations / circumstances in which there has been avoidance / evasion of the Convention?

We are not aware of such situations / circumstances.

Non-Convention cases and non-Convention States

56. Are you aware of any troubling cases of International abduction which fall outside the scope of the Convention?

We are not aware of such cases.

57. Are there any States that you would particularly like to see become a State Party to the Convention? Are there any States (which are not Parties to the Convention or Members of the Hague Conference) that you would like to see invited to the Special Commission meeting in October / November 2006. Would you be willing to contribute to a fund to enable certain developing States to attend?

We have no particular recommendation at the moment.

58. Do you have any comments on bilateral or other agreements between your State and a non-Contracting State?

We have no comments in this respect.

59. What additional information would you find useful on the non-Hague Convention page on INCADAT available at < www.incadat.com >.

It is very comprehensive and we have no suggestions on additional information or topics.

Relationship with other instruments

60. Do you have any comments or observations on the impact of regional instruments on the operation of the 1980 Hague Convention, for example, *Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000* and the 1989 *Inter-American Convention on the International Return of Children*?

We have no comments.

61. Do you have any comments or observations on the impact of international instruments on the operation of the 1980 Hague Convention, in particular, the 1989 *United Nations Convention on the Rights of the Child*?

We have no comments.

The Hague Convention of 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children

62. If the 1996 Hague Convention is in force in your State, do you have any comments regarding (a) how it has been implemented; (b) how it is operating?

The 1996 Hague Convention is not applicable to the HKSAR. We have no comments.

63. If the 1996 Hague Convention is not in force in your State, is your State considering implementing this Convention? What are viewed as (a) the main advantages and (b) the main difficulties in implementing this Convention?

According to the Basic Law of the HKSAR, which is the constitutional document of the HKSAR, the application to the HKSAR of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the HKSAR, and after seeking the views of the Government of the HKSAR. We will give due consideration to the 1996 Hague Convention and express our views through the Central People's Government of China in due course.

64. Have you experienced any difficulties concerning interpretation of particular provisions?

We have not experienced any difficulties concerning interpretation of the provisions of the 1996 Hague Convention.

65. Would you find a Guide to Good Practice on Implementation of this Convention useful?

We would certainly find such a Guide useful.

66. The Special Commission of 2001 recognised the potential advantages of the 1996 Hague Convention as an adjunct to the 1980 Hague Convention, and recommended that Contracting States should consider ratification or accession. How has your State responded to this recommendation?

As responded above, the application to the HKSAR of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government of China. We will give due consideration to this recommendation and express our views through the Central People's Government

of China in due course.

Any other matters and recommendations

67. States are invited to comment on any other matters which they may wish to raise concerning the practical operation of the 1980 Convention or the implementation of the 1996 Convention.

We have no comments.

68. States are invited to make proposals concerning recommendations to be made by the Special Commission.

We have no proposals.

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