

**PRÉPARATIFS CONCERNANT LA SIXIÈME RÉUNION DE LA COMMISSION SPÉCIALE
SUR LE FONCTIONNEMENT PRATIQUE DE LA CONVENTION DE LA HAYE
DU 25 OCTOBRE 1980 SUR LES ASPECTS CIVILS DE L'ENLÈVEMENT
INTERNATIONAL D'ENFANTS ET DE LA CONVENTION DE LA HAYE DU 19 OCTOBRE 1996
CONCERNANT LA COMPÉTENCE, LA LOI APPLICABLE, LA RECONNAISSANCE,
L'EXÉCUTION ET LA COOPÉRATION EN MATIÈRE DE RESPONSABILITÉ PARENTALE
ET DE MESURES DE PROTECTION DES ENFANTS**

document établi par le Bureau Permanent

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**PREPARATIONS FOR THE SIXTH MEETING OF THE SPECIAL COMMISSION
ON THE PRACTICAL OPERATION OF THE HAGUE CONVENTION
OF 25 OCTOBER 1980 ON THE CIVIL ASPECTS OF INTERNATIONAL
CHILD ABDUCTION AND 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**

document drawn up by the Permanent Bureau

*Document d'information No 1 de novembre 2010 à l'intention de la
Commission spéciale de juin 2011 sur le fonctionnement pratique de la
Convention Enlèvement d'enfants de 1980 et de la
Convention Protection des enfants de 1996*

*Information Document No 1 of November 2010 for the attention of the
Special Commission of June 2011 on the practical operation of the
1980 Hague Child Abduction Convention and the
1996 Hague Child Protection Convention*

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INTRODUCTION

Five meetings of the Special Commission to review the practical operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (the "1980 Convention") have been held, in 1989, 1993, 1997, 2001 and 2006 respectively. The Fifth Meeting included a review of the 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* (the "1996 Convention").

It is planned to hold the Sixth Meeting of the Special Commission in two parts. The first part is to take place in The Hague from 1 to 10 June 2011, with the second part to be held in The Hague, tentatively in January 2012, and to last for a period of approximately eight days.

It is intended that the Sixth Meeting of the Special Commission will again include a review of the implementation of the 1996 Convention. In addition, and for the first time, it will also include a review of the operation of the 1996 Convention. As a result please note that, for the purposes of the Sixth Meeting of the Special Commission, the term "practical operation" in relation to the 1980 and 1996 Conventions will be taken to mean the implementation *and* operation of the Conventions.

The need to hold the Special Commission meeting in two parts arises from the heavy agenda anticipated. Apart from the general review of the practical operation of the two Conventions, the Special Commission will be considering, in particular, the following matters:

- A draft of the Guide to Good Practice on Mediation under the 1980 Convention;
- A draft Practical Handbook on the Operation of the 1996 Convention;
- Draft General Principles for Judicial Communications;
- A report on consultations concerning the feasibility and desirability of a protocol to the 1980 Convention;
- A statistical analysis of applications made in 2008 under the 1980 Convention;
- International family relocation;
- The future of the "Malta Process", including consideration of the "Principles for the Establishment of Mediation Structures in the context of the Malta Process", and the accompanying Explanatory Memorandum;
- The role of the Permanent Bureau in monitoring and supporting the two Conventions.

The Permanent Bureau proposes the following division of the major items between the two parts of the Special Commission meeting:

First part

- General review of the practical operation of the two Conventions;
- Consideration of the draft Guide to Good Practice on Mediation under the 1980 Convention and of the "Principles for the Establishment of Mediation Structures in the context of the Malta Process" and the accompanying Explanatory Memorandum;
- Consideration of the draft General Principles for Judicial Communications;
- Consideration of the draft Practical Handbook on the Operation of the 1996 Convention.

Second part

- Discussion of the feasibility and desirability of a protocol to the 1980 Convention;

- International family relocation;
- The future of the “Malta Process”;
- The role of the Permanent Bureau in monitoring and supporting the two Conventions.

Inevitably there will be some overlap between the two parts of the meeting. In particular, some of the items in the first part may be further considered in the context of the discussion in the second part regarding a possible protocol to the 1980 Convention.

DOCUMENTATION

In preparation for the Sixth Meeting of the Special Commission, a number of documents will be sent to States in the coming months. Some of the documents will request a response from States. In order to give States as much notice as possible, listed below is the documentation the Permanent Bureau anticipates will be sent in the lead up to the Special Commission meeting, with estimated dates for responses where relevant.

1. The general Questionnaire on the practical operation of the 1980 and 1996 Conventions. This is being circulated at the same time as this Information Document. The Permanent Bureau would greatly appreciate it if replies to this questionnaire could be sent by no later than **18 February 2011**.
2. A Country Profile for the 1980 Convention is being developed with the help of an Expert Working Group (see Recommendation No 1.1.11 of the Conclusions and Recommendations of the 2006 Special Commission¹). It is hoped that this will be circulated in December 2010.
 - a. Members of the Hague Conference and States Parties to the 1980 Convention will be invited to comment on the form, with comments to be returned by the end of **January 2011**.
 - b. States Parties to the 1980 Convention will subsequently be asked to complete the form for the purpose of the meeting of the Special Commission, with a return date in **April 2011**. The Country Profile will (along with States Parties’ replies to the general Questionnaire – see 1 above) provide much of the information needed for the Special Commission meeting.
3. A questionnaire concerning the feasibility and desirability of a protocol to the 1980 Convention will be circulated in December 2010; with a return date in early **March 2011**.
4. The Questionnaire and explanatory document relating to the in-depth statistical research study being undertaken by Professor Nigel Lowe (Cardiff University) in consultation with the Permanent Bureau, has already been circulated – see circular No 49451(10)WD/LJM of 5 August 2010, “Statistics under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*” – with a request that the questionnaire be completed **as soon as possible**. An analysis of these statistics, authored by Professor Nigel Lowe, will follow prior to the Special Commission meeting.

¹ “Conclusions and Recommendations of the Fifth Meeting of the Special Commission to review the operation of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the practical 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* (30 October – 9 November 2006)”, available on the Hague Conference website at < www.hcch.net >, under “Child Abduction Section” then “Special Commission meetings”.

5. A report by the Permanent Bureau on consultations concerning the desirability and feasibility of a protocol to the 1980 Convention will be circulated in May 2011.
6. A draft of the Guide to Good Practice on Mediation under the 1980 Convention is being prepared by the Permanent Bureau in consultation with an Expert Working Group. The draft Guide will be circulated to Members of the Hague Conference and States Parties to the 1980 Convention in March 2011 with a request for comments by **May 2011**.
7. Draft General Principles for Judicial Communications will be circulated prior to the Special Commission meeting, tentatively in February 2011 (see Recommendation No 1.6.7 of the Conclusions and Recommendations of the 2006 Special Commission).
8. The “Principles for the Establishment of Mediation Structures in the context of the Malta Process” and the accompanying Explanatory Memorandum were circulated in November 2010.
9. A revised draft of the Practical Handbook on the Operation of the 1996 Convention is being prepared by the Permanent Bureau in consultation with an Expert Working Group (see Recommendation No 2.2 of the Conclusions and Recommendations of the 2006 Special Commission). The draft Practical Handbook will be circulated to Members of the Hague Conference and States Parties to the 1996 Convention in early 2011.
10. The Permanent Bureau will be preparing short reports which will be circulated in advance of the relevant part of the meeting of the Special Commission, including on the following subjects:
 - a. Judicial communications;
 - b. International family relocation; and
 - c. The services provided by the Permanent Bureau (including INCADAT and *The Judges’ Newsletter*), and the role of the Permanent Bureau in monitoring and supporting the 1980 and 1996 Conventions.
11. The Permanent Bureau will also be circulating, in advance of the first part of the Special Commission meeting:
 - a. A revised model form for applications made under the 1980 Convention; and
 - b. A model form for giving consent for a child to travel outside the jurisdiction.

Request for funding²

The Permanent Bureau would be extremely grateful if all States could give urgent consideration to the possibility of contributing towards the costs of the following:

(1) Attendance of certain States at the Special Commission meeting

Certain developing States (both States Parties and non-States Parties³ to the 1980 and 1996 Conventions) will be unable to attend the Special Commission meeting without financial assistance. The Permanent Bureau has no funding available for this purpose.

The attendance of such developing States at the Special Commission meeting is crucially important. If they are Party to one or both Conventions, their participation is needed in order that a full and proper dialogue can take place regarding the effective practical operation of the Conventions. If they are non-States Parties, their attendance provides them with an opportunity to learn about the advantages of accession to the 1980 and 1996 Conventions and to learn about the best methods of implementing the Conventions.

(2) Spanish translation of Special Commission documentation and Spanish interpretation during the Special Commission meeting

The Regular Budget of the Hague Conference does not provide for Spanish translation of documentation produced by the Hague Conference or for Spanish interpretation during Special Commission meetings.

At the current time there is no supplementary funding available for Spanish translation of most of the Special Commission documentation and no funding is available for Spanish interpretation during the Special Commission meeting. The Permanent Bureau considers that making all documentation available to participants in Spanish and providing Spanish interpretation at the meeting is essential for the success of the meeting. It will enable a large number of States Parties to participate fully in discussions which otherwise might be largely, or wholly, inaccessible to them.

States are asked to consider whether they are able to make funding available for these two purposes.

² For further details, please refer to the Supplementary Budget of the Hague Conference on Private International Law: Financial Year LVI, Part I: Special Projects and Expenses.

³ See Prel. Doc. No 1 of November 2010 (the general Questionnaire) at question 20.5, inviting States Parties to provide information as to which non-States Parties they consider should be invited to the Special Commission meeting.