

18 septembre/September 2008

**Speech by Dr. H.R. Bhardwaj, Hon`ble Minister for Law and Justice in India –
115th Anniversary of the Hague Conference on Private International Law**

Excellencies, Ladies and Gentlemen,

I am greatly honoured and pleased to share this occasion with my counterparts from France, acting President of the European Union, and the Netherlands, host country of the Hague Conference on Private International Law.

India is proud to have joined the Hague Conference on Private International Law during this Anniversary Year, on the 13th of March, 2008. This step was preceded by the ratification and accession to the four Hague Conventions. Having ratified the Hague Conventions on Abolishing the Legalisation Requirement, Service of Documents Abroad, Taking of Evidence Abroad and Inter country Adoption, the Indian Government felt it was in a position to appreciate/measure the importance of full membership of the Organisation itself and to decide to seek the status of a Member State.

There were at least three important reasons for this:

- First, membership enables us to co-determine the work programme of the Hague Conference, and to ensure that its work will take into account the needs of India and other Southern Asian countries.
- Second, the international meetings of the Conference offer us a unique opportunity to be part of the networks of experts and delegates who have come to The Hague over the years and have developed such a special cooperative spirit.
- Third, Membership will enable .India to benefit from the very useful, and in fact, indispensable services its secretariat, The Permanent Bureau, offers to its Members.

India, as you know, with 1.14 billion inhabitants is the second largest country in terms of population on the planet. Pandit Jawaharlal Nehru laid the foundations of modern India, His vision and determination have left a lasting impression on every facet of national endeavour since Independence: It is due to his initiative that India now has a strong and diversified industrial base and is a major industrial nation of the world. The goals and objectives set out for the nation by Pandit Nehru on the eve of Independence, namely, the rapid agricultural and industrial development of our country, rapid expansion of opportunities for gainful employment, progressive reduction of social and economic disparities, removal of poverty and attainment of self-reliance remain as valid today as at the time Pandit Nehru first set them out before the nation.

Until recently, issues of private international law were of relatively minor importance to a population little involved in cross-border activities. However, the growing interdependence between nations, societies, markets and people - in short: globalization – has changed this picture dramatically.

You should know, for example, that it is estimated that at least 25 million Indian nationals live outside the country, many in Member States of the Hague Conference. An increasing number of these Indian nationals now maintain links with India. They fly regularly back and forth to India, engage themselves in business and family relationships with Indian residents. This fact alone gives rise to numerous problems of private international law. It is not by accident, that it was my colleague Vayalar Ravi, then Minister for Overseas Indian Affairs, who announced India's intention to join the Hague Conference in December 2005 at the very successful conference on private international law. The significance of private international law, and thereby of the Hague Conference and its work, is growing in our world. Cross-border contacts are increasing exponentially, and there is an increasing need for these contacts to be facilitated and regulated. This is in the interest of private actors, but also of the common good, because it will bring stability and peace to our emerging world society.

Another factor which has led to increased cross border disputes is due to the advent of digital revolution and e-commerce which facilitates individuals residing in different countries to enter into commercial transactions without having to travel to far off destinations to conclude contracts. As a logical corollary when commercial transactions increase disputes between parties are bound to increase. The expansion of international business and increasing frequency of trans-national litigation, the magnitude of the problem is likely to grow. This in turn has led to the phenomenal increase in the number of disputes between the parties belonging to different nationalities.

Commercial transactions involving parties belonging to different nationalities give rise to disputes which involve complex legal problems involving private international law like the recognition and enforcement of foreign judgments in domestic courts.

In the absence of an applicable bilateral arrangement or a multilateral convention recognition and enforcement of foreign judgments is determined in accordance with the recognizing country's domestic law this necessitates the judicial systems of the states to harmonize their laws and the judicial systems so that there is mutual respect for the judgments delivered by the foreign courts.

The Hague Conference on Private International Law I am given to understand' is in the process of negotiating a new convention designed to create common jurisdiction rules for International civil and commercial cases and to provide for International recognition and enforcement of judgment issued under these rules. The Hague Conference is doing a commendable job in this area and requires our highest appreciation.

As globalization and liberalization progresses of trade and commerce gains more momentum cross border litigation is bound to phenomenally increase. This requires that recognition and enforcement of foreign judgments between nations should be governed by a common law of mankind a kind of Global Justice System. With this end in view I have initiated in my country measures to set in motion institutional arbitration. I will be signing a Host country Agreement with the Permanent Court of Arbitration for the establishment of a Regional Facility of PCA in India.

I am happy to be here in the city which is famous for hosting the First International Peace Conference which was convened in 1899 and the subsequent Conference in 1907 which laid the foundations of modern International Law.

Thank You.