



**Study Visit of Vietnamese government and judicial officials to the
Permanent Bureau of the Hague Conference on Private International Law
8-10 December 2010, The Hague**

SUMMARY REPORT

Background

On 8-10 December 2010, a delegation of Vietnamese officials from the Ministry of Justice, Office of State President, Ministry of Foreign Affairs and the People's Supreme Court attended a study visit organised by the Permanent Bureau of the Hague Conference on Private International Law ("HCCCH") in conjunction with the Ministry of Justice Viet Nam. The main purpose of the study visit was to further acquaint the delegation to the organisation and work of the Hague Conference.

With 70 Members (69 States and the European Union) representing all continents and all major legal systems, the Hague Conference on Private International Law is a global inter-governmental organisation. Currently involving, through its treaty networks, more than 130 countries around the world, the work of HCCCH develops and services multilateral legal instruments – the "Hague Conventions" – seeking "progressive unification of the rules of private international law" (Art. 1 of the Statute of the Hague Conference) so individuals and companies can enjoy a high degree of legal certainty and predictability in cross border situations. This involves finding internationally-agreed approaches to issues such as jurisdiction of the courts, applicable law, recognition and enforcement of judgments in a wide range of areas, from commercial and finance law to family and child protection law and, in addition, establishing networks of judicial and administrative co-operation in relation to the above.

During the study visit, participants examined and discussed openly the practical operation and monitoring of Hague Conventions relating to international legal co-operation and litigation, namely:

- *Convention of 5 October 1961 Abolishing the Requirement of Legalisation ("Apostille Convention");*
- *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("Service Convention");*
- *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters ("Evidence Convention");*
- *Convention of 25 October 1980 on International Access to Justice ("Access to Justice Convention");* and
- *Convention of 30 June 2005 on Choice of Court Agreements ("Choice of Court Convention").*

Participants also discussed the benefits and implications for Viet Nam of becoming a Member of the Hague Conference.

The study visit provided an opportunity for the delegation to brief the Permanent Bureau on work being undertaken within the Association of Southeast Asian Nations ("ASEAN"), on the proposal of Viet Nam, to strengthen co-operation on judicial assistance in civil and commercial matters. It also coincided with Viet Nam's signature of the *1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption* ("Intercountry Adoption Convention"), which took place in The Hague on 7 December 2010.

The full agenda and list of participants for the study visit are annexed to this Report. Outlines of the presentations given by the Permanent Bureau to participants during the study visit were also made available to participants.

Outcome

The Permanent Bureau:

1. welcomes Viet Nam's signature of the Intercountry Adoption Convention, and encourages Viet Nam to complete internal procedures towards a timely ratification;
2. with a view to strengthening the involvement of Viet Nam in the work of the HCCH, and acknowledging the relevance of the work of the HCCH for Viet Nam as well as the important benefits that the Hague Conventions examined could bring to Viet Nam, encourages Viet Nam to assess the possibility of becoming a Member of the HCCH, and party to these Hague Conventions; and
3. invites Viet Nam to provide, where available, copies of the text of the Hague Conventions in Vietnamese, particularly those examined.

Participants note the work of ASEAN in the field of legal co-operation as an important step towards greater regional integration, and international trade and investment. Participants also acknowledge the existing interactions between the HCCH and Viet Nam at a regional and international level, in particular through Viet Nam's involvement with the Asia Pacific regional conferences organised by the HCCH, and the HCCH's participation in activities hosted within ASEAN. The Permanent Bureau emphasises the importance of the Hague Conventions examined for ASEAN regional integration, and is available, subject to available resources, to provide further information and support to ASEAN in this respect.

Moving forward, the following suggestions are conveyed to the Vietnamese authorities for consideration:

Viet Nam's possible involvement in the work of the HCCH

1. Viet Nam explores possibilities to continue its involvement with the HCCH. This may include attending meetings of Special Commissions regarding the practical operation in targeted Hague Conventions as an observer, according to established practice.
2. Viet Nam continues its involvement with the Asia Pacific regional conferences, the next of which the HCCH is hoping to hold towards the end of 2011 or at the start of 2012.
3. Viet Nam assesses the possibility of becoming a Member of the HCCH. Membership allows Viet Nam to play a part in determining the policies, work programme and future direction of the HCCH, and to have greater access to technical assistance with the implementation and operation of Hague Conventions to which Viet Nam is, or considers becoming, party. The provision of such assistance by the Permanent Bureau, in possible collaboration with third States, is subject to available resources.

Possible roadmap for joining the Hague Conventions

4. Viet Nam continues to study actively the Apostille and Service Conventions with a view to possible accession. In relation to the Apostille Convention, Viet Nam will continue to study the electronic Apostille Pilot Program ("e-APP").
5. Viet Nam continues to study the other Hague Conventions examined with a view to their possible subsequent ratification or accession.
6. In following this roadmap, officials may refer to the HCCH website < www.hcch.net >, which contains a wealth of useful information about the organisation and work of the HCCH. A dedicated section on the website for each of the Apostille, Service, and Evidence Conventions contains the full text of each Convention, updated data on each Convention's practical operation, and the conclusions and recommendations of the 2003 and 2009 Special Commissions. In particular, the Apostille section contains further information about the e-APP.
7. Subject to available resources, the Permanent Bureau remains at the disposal of the Vietnamese authorities to provide additional information or assistance regarding the accession to and implementation of the Hague Conventions examined, as well as of other Hague Conventions that may be of interest to Viet Nam.

Participants recognise that the study visit allowed delegates and members of the Permanent Bureau to engage in an in-depth and interactive exchange of experience and views in the field of international legal co-operation.

Participants thank officials from the District Court and the Public Prosecutor's Office in The Hague for generously donating their time to share their knowledge, and provide delegates with first-hand experience, in the implementation and practical operation of the Apostille and Service Conventions respectively.

The Hague, 10 December 2010.



ANNEX A

**Study Visit of Vietnamese government and judicial officials to the
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AGENDA

Wednesday 8 December 2010

- 11.00-11.15 a.m. **Opening of the meeting**
Mr Christophe Bernasconi, First Secretary of the Hague Conference.
- 11.15-11.30 a.m. **Introductions**
- 11.30 a.m. - 12.00 p.m. **Overview of the Hague Conference**
Presentation by Mr Christophe Bernasconi. This presentation will address:
(a) the organisation and activities of the Hague Conference;
and
(b) the benefits and financial implications to Viet Nam of possible membership of the Hague Conference.
- Mr Alexander Kunzelmann, Legal Officer of the Permanent Bureau, will also give a brief presentation on the activities of the Hague Conference in the Asia Pacific.
- 12.00-12.30 p.m. **Viet Nam's current activities at a national level and within ASEAN in the field of legal cooperation: nature and relationship with the work of the Hague Conference**
Presentation by Mr Nguyen Khanh Ngoc, Director General, Department of International Cooperation, Ministry of Justice Viet Nam.
- 12.30-2.00 p.m. *Lunch break*
- 2.00-4.00 p.m. **Overview of the 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Document in Civil or Commercial Matters (the "Service Convention")**
Presentation by Mr Christophe Bernasconi.
- This presentation will address:
(a) the scope, key provisions and impact of the Convention;
(b) the practical operation of the Convention;
(c) ongoing monitoring and review activities;
(d) the use of modern technology (including electronic communication) in practice;
(e) the procedure for joining and implementing the Convention;
and
(f) the potential benefits to Viet Nam of becoming a State Party.

Discussion

*Refreshments will be offered at the end of the session.
The Permanent Bureau will be closing before 5 p.m. on this day.*

Thursday 9 December 2010

9.00-10.15 a.m.

Overview of the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Documents (the "Apostille Convention")

Presentation by Mr Christophe Bernasconi. This presentation will address similar matters to the earlier presentation on the Service Convention, and will include an introduction to the electronic Apostille Pilot Programme ("e-APP") with particular emphasis on implementing the e-Register component.

10.15-10.30 a.m.

Coffee break

10.30-11.30 a.m.

Overview (cont.) followed by discussion

11.30 a.m. - 1.00 p.m.

Guided visit of the Peace Palace

Participants are asked to assemble at the Permanent Bureau for the walk to the Peace Palace (150 metres). Passports will be needed for a security check at the gates of the Peace Palace. The tour begins at 12.00 p.m.

1.00-2.30 p.m.

Lunch at Restaurant des Juges in the grounds of the Peace Palace

2.30-5.00 p.m.

Site visit to a Competent Authority designated by the Netherlands under the Apostille Convention

Participants are invited to attend a site visit to the District Court in The Hague (*Rechtbank*), which is one of the authorities designated by the Netherlands under the Apostille Convention to issue Apostilles. During the site visit, participants will experience the actual process for issuing Apostilles and have the opportunity to find out more about the function of Competent Authorities under the Apostille Convention (including maintaining a register of Apostilles issued).

Participants are asked to assemble at the Permanent Bureau for transport to the *Rechtbank* by public transport. Passports should be carried. The site visit begins at 3.00 p.m. Return transport to the Permanent Bureau by public transport.

Friday 10 December 2010

9.45-11.00 a.m.

Guest visit to the Permanent Bureau from Central Authority designated by the Netherlands under the Service Convention

Interactive session with Mr Derek Lugtenberg on the Dutch experience with the implementation and operation of the Service Convention. Mr Lugtenberg is Assistant Public Prosecutor, International Legal Assistance with the District Public Prosecutor's Office in The Hague.

11.00-11.15 a.m.

Coffee break

11.15 a.m. - 12.30 p.m.

Overview of the 1970 Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the "Evidence Convention")

Presentation by Ms Mayela Celis, Legal Officer of the Permanent Bureau. This presentation will address similar matters to the earlier presentations on the Service and Apostille Conventions.

Discussion on the Evidence Convention

12.30-2.00 p.m.

Lunch break

2.00-2.30 p.m.

Overview of the 1980 Hague Convention on International Access to Justice Convention (the "Access to Justice Convention")

Presentation by Ms Mayela Celis.

Discussion on the Access to Justice Convention

2.30-3.30 p.m.

Overview of the work of the Hague Conference on international jurisdiction and recognition/enforcement of foreign judgments

Presentation by Ms Marta Pertegás, Secretary of the Hague Conference. In particular, this presentation will provide an overview of:

- (a) the *2005 Hague Convention on Choice of Court Agreements* (the "Choice of Court Convention"); and
- (b) the Judgments Project.

Mr Alexander Kunzelmann will also give a brief presentation to explain the status of the *1971 Hague Convention on Recognition and Enforcement of Foreign Judgments*.

3.30-4.00 p.m.

Coffee break

4.00-5.00 p.m.

Presentation and discussion of conclusions and recommendations

Closing



ANNEX B

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LIST OF PARTICIPANTS

DELEGATION OF VIETNAMESE GOVERNMENT OFFICIALS

1. **Mr NGUYEN Khanh Ngoc (Head of delegation)**
Director General, Department of International Cooperation, Ministry of Justice, Hanoi
2. **H.E. Mr HUYNH Minh Chinh**
Ambassador Extraordinary and Plenipotentiary, Embassy of Viet Nam, The Hague
3. **Mrs PHAN Thi Thu Ha**
Legal Official, Judicial Research Institute, Supreme People's Court, Hanoi
4. **Mr NGUYEN Quang Anh**
Legal Official, Law Department, Office of State President, Hanoi
5. **Mrs NGUYEN Thi Thu Thuy**
Legal Official, Consular Department, Ministry of Foreign Affairs, Hanoi
6. **Mrs NGUYEN Minh Phuong**
Head of Division for Mutual Judicial Assistance, Department of International Cooperation, Ministry of Justice, Hanoi
7. **Mrs HOANG Thi Thu Ha**
Deputy Head of Division for Mutual Judicial Assistance, Department of International Cooperation, Ministry of Justice, Hanoi
8. **Mrs NGUYEN Linh Kha**
Deputy Head of Division for Public Law and Human Right Affairs, Department of International Cooperation, Ministry of Justice, Hanoi
9. **Mrs NGUYEN Thi Hanh**
Deputy Head of Division for Economic and Civil Law, Civil and Economic Legislation Department, Ministry of Justice, Hanoi

NETHERLANDS

Mr Derek B. LUGTENBERG

Secretary for International Legal Aid to the Prosecutor of the District Court of The Hague

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Mr Hans VAN LOON, Secretary General

Mr Christophe BERNASCONI, First Secretary (Chair)

Ms Marta PERTEGÁS, Secretary

Ms Mayela CELIS, Legal Officer

Mr Alexander KUNZELMANN, Legal Officer