

**HAGUE CONVENTION OF 5 OCTOBER 1961
ABOLISHING THE REQUIREMENT OF LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS**

(“Apostille” Convention)

OUTLINE OF THE CONVENTION

The main purpose of the Apostille Convention is to *facilitate the circulation of public documents* issued by a State Party to the Convention and to be produced in another State Party to the Convention¹. The Convention accordingly replaces the cumbersome and frequently costly formalities for legalisation of a public document with the mere issuance of an Apostille by the competent authorities of the State in the territory of which the document has been issued. The Convention has demonstrated its great usefulness even for countries not requiring legalisation in their domestic law: the citizens in these countries enjoy the benefits of the Convention whenever they intend to produce a domestic public document in another country which, for its part, requires authentication of the document concerned.

Public documents

The Convention applies only to public documents. These are documents emanating from an *authority or official* connected with a court or tribunal of the State (including documents issued by an administrative or constitutional court or tribunal, a public prosecutor, a clerk or a process-server); *administrative documents*; *notarial acts*; and *official certificates* which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures. The main examples of public documents for which Apostilles are issued in practice include birth, marriage and death certificates; extracts from commercial registers and other registers; patents; court

¹ As of 30 April 2005, the following 85 States were Parties to the Convention: Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, China - Special Administrative Regions of Hong Kong and Macao only, Colombia, Cook Islands, Croatia, Cyprus, Czech Republic, Dominica, Ecuador, El Salvador, Estonia, Fiji, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Grenada, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Namibia, Netherlands, New Zealand, Niue, Norway, Panama, Portugal, Romania, Russian Federation, Saint Lucia, Samoa, San Marino, Serbia and Montenegro, Seychelles, Slovakia, Slovenia, South Africa, Spain, Saint Kitts & Nevis, Saint Vincent and the Grenadines, Suriname, Swaziland, Sweden, Switzerland, Tonga, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United States of America, Venezuela. India and Poland are due to join the list of Party States shortly. For an updated list, see the Hague Conference's website at www.hcch.net.

rulings; notarial acts (including attestations of signatures); academic diplomas issued by public institutions (in the case of diplomas issued by private institutions, the Apostille may only be issued to certify the signature and capacity of the notary when the diploma is authenticated by a notary, or to certify the signature and capacity of the signatory of a true copy); etc.

On the other hand, the Convention does not apply either to documents executed by diplomatic or consular agents or to administrative documents dealing directly with commercial or customs operations (e.g., certificates of origin or import or export licenses), such documents being in any event exempt from legalisation in most cases.

The issuance of an Apostille by a competent authority and the requirement of keeping a register

The Apostille is placed by the competent authority on the public document itself or on an "allonge" (each State Party to the Convention is required to designate authorities in its country, in their official capacities, competent to issue Apostilles). The Apostille must comply with the model annexed to the Convention. That formal requirement allows a speedy review of the Apostille's regularity. In addition, the Convention has set up a supervision system allowing the detection of false information or false signatures that might be placed upon the Apostille, and above all to facilitate proof of the Apostille's forgery. Each competent authority is required to keep a register or card index in which it records the Apostilles that it has issued. This register or card index may be inspected by any interested person wishing to ascertain whether the entries in the Apostille correspond with those in the register. Having regard to the evolution of technology, it is now accepted that the register may be kept in electronic form.

The effects of an Apostille

The only effect of an Apostille is to certify the authenticity of the signature, the capacity in which the person signing the document has acted, and where appropriate, the identity of the seal or stamp which the document bears. Accordingly, the Apostille does not relate to the contents of the underlying document themselves.

Monitoring of the Convention

The Apostille Convention's practical operation was reviewed by a Special Commission in 2003. It confirmed the enormous usefulness of that Convention in practice, in light in particular of modern technologies, the use of which is being found to be an additional factor in favour of the Convention's effectiveness.

A handbook on the practical operation of the Convention

The Apostille Convention's implementation will also be facilitated by the drafting of a Practical Handbook that the Permanent Bureau expects to publish in 2004. A document providing a more detailed review of the Convention can already be consulted on the Hague Conference's website at www.hcch.net.

Many items of information relating to the Convention are available from the Hague Conference's website at www.hcch.net. For additional information, please contact the Permanent Bureau of the Hague Conference (Christophe Bernasconi, First Secretary, responsible for matters concerning the Convention: cb@hcch.nl).