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CONCLUSIONS ET RECOMMANDATIONS

**DE LA CINQUIÈME RÉUNION DE LA COMMISSION SPÉCIALE SUR
LE FONCTIONNEMENT DE LA CONVENTION DE LA HAYE DU 25 OCTOBRE 1980
SUR LES ASPECTS CIVILS DE L'ENLÈVEMENT INTERNATIONAL D'ENFANTS
ET LA MISE EN ŒUVRE 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
(30 OCTOBRE – 9 NOVEMBRE 2006)**

adoptées par la Commission spéciale

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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
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INTRODUCTION

The Special Commission met in the context of important developments since the Fourth meeting of the Special Commission to review the operation of the 1980 Convention in March 2001:

- Firstly, the number of Contracting States to the 1980 Convention had grown from 66 to 76, including new States from three continents, indicating the expanding global scope of the Convention.
- Secondly, all of these were acceding States, and, not having taken part in the original negotiations, new to the Convention. In a growing number of cases this gave rise to issues relating to the implementation of the Convention, including the need to provide technical assistance and training.
- Thirdly, the trend already noticed by the Fourth Special Commission in 2001 that approximately 2/3 of the taking parents were primary caretakers, mostly mothers, had confirmed itself, giving rise to issues which had not been foreseen by the drafters of the Convention.
- Fourthly, since the Fourth Special Commission meeting, the 1996 Convention on the International Protection of Children had come into force at the global level (1 January 2002). Thirteen States were now parties to the 1996 Convention, and a further 18 States had signed the Convention. Of these 31 States, 29 were also Parties to the 1980 Convention.*
- Fifthly, at the regional level, the Brussels II *bis* Regulation, which is designed to facilitate the return of children further, and many of whose provisions were inspired by the 1996 Convention, took effect on 1 March 2005. At the same time important initiatives to promote the 1996 Convention and good practice in relation to the 1980 Convention were underway in Latin America, Africa, the Asian Pacific region, and in the framework of the Malta process.
- Finally, important new initiatives had seen the light in respect of cross-border mediation and direct cross-border co-operation among judges.

CHAPTER I – OPERATION OF THE 1980 CONVENTION

PART I – THE ROLE AND FUNCTIONS OF CENTRAL AUTHORITIES

Role of the requesting and requested Central Authorities in handling applications

- 1.1.1 The problem of legal concepts being mistranslated or misunderstood may be eased if the requesting Central Authority provides a summary of the relevant law concerning rights of custody. This summary would be in addition to a translation or copy of the relevant law.
- 1.1.2 In exercising their functions with regard to the transmission or acceptance of applications, Central Authorities should be aware of the fact that evaluation of certain factual and legal issues (for example, relating to habitual residence or the existence of custody rights) is a matter for the court or other authority deciding upon the return application.

* Following the meeting of the Special Commission, Romania, also a Party to the 1980 Convention, signed the 1996 Convention on 15 November 2006.

- 1.1.3 The discretion of a Central Authority under Article 27 to reject an application that is manifestly not well-founded should be exercised with extreme caution.

Legal aid and representation

- 1.1.4 The importance for the applicant of having effective access to legal aid and representation in the requested country is emphasised. Effective access implies:
- a) the availability of appropriate advice and information which takes account of the special difficulties arising from unfamiliarity with language or legal systems;
 - b) the provision of appropriate assistance in instituting proceedings;
 - c) that lack of adequate means should not be a barrier to receiving appropriate legal representation.
- 1.1.5 The Central Authority should, in accordance with Article 7 g), do everything possible to assist the applicant to obtain legal aid or representation.
- 1.1.6 The Special Commission recognises that the impossibility of, or delays in, obtaining legal aid both at first instance and at appeal, and / or in finding an experienced lawyer for the parties, can have adverse effects on the interests of the child as well as on the interests of the parties. In particular the important role of the Central Authority in helping an applicant to obtain legal aid quickly or to find an experienced legal representative is recognised.

Language and translation issues

- 1.1.7 States are reminded of the terms of Article 24 and the possibility that a requesting State may send an application in either English or French when a translation into the official language or an official language of the requested State is not possible.
- 1.1.8 As a matter of co-operation between Central Authorities, it would be desirable, in the circumstances foreseen by Article 24, for the requesting State to communicate with the requested State regarding any difficulties it has with the translation of the application. The Special Commission invites States to consider the possibility of agreeing arrangements for a translation of the application to be made in the requested State, while the cost is borne by the requesting State.

Information exchange, training and networking among Central Authorities

- 1.1.9 The Special Commission recognises the advantages and benefits to the operation of the Convention from information exchange, training and networking among Central Authorities. To this end, it encourages Contracting States to ensure that adequate levels of financial, human and material resources are, and continue to be, provided to Central Authorities.
- 1.1.10 The Special Commission supports efforts directed at improving networking among Central Authorities. The value of conference calls to hold regional meetings of Central Authorities is recognised.

Country profiles

1.1.11 The Special Commission recognises the value of having information concerning the relevant national laws and procedures readily accessible to all States, and endorses the development of country profiles for this purpose. Contracting States should exclusively be responsible for updating the information contained in the country profiles. It is recommended that a Working Group facilitated by the Permanent Bureau develop a country profile form and that States representing a range of different experience, capacities and legal systems be represented on the Working Group. Those States include: Argentina, Australia, Bahamas, Belgium, Brazil, Canada, Chile, France, Portugal, South Africa, Spain, Sweden, the United Kingdom and the United States of America. The draft country profile should be circulated to all Contracting States for their comments before its publication on the Hague Conference website.

Ensuring the safe return of children

1.1.12 The Special Commission reaffirms the importance of Recommendation 1.13 of the Special Commission meeting of 2001:

"To the extent permitted by the powers of their Central Authority and by the legal and social welfare systems of their country, Contracting States accept that Central Authorities have an obligation under Article 7 h) to ensure appropriate child protection bodies are alerted so they may act to protect the welfare of children upon return in certain cases where their safety is at issue until the jurisdiction of the appropriate court has been effectively invoked.

It is recognised that, in most cases, a consideration of the child's best interests requires that both parents have the opportunity to participate and be heard in custody proceedings. Central Authorities should therefore co-operate to the fullest extent possible to provide information in respect of legal, financial, protection and other resources in the requesting State, and facilitate timely contact with these bodies in appropriate cases.

The measures which may be taken in fulfilment of the obligation under Article 7 h) to take or cause to be taken an action to protect the welfare of children may include, for example:

- a) *alerting the appropriate protection agencies or judicial authorities in the requesting State of the return of a child who may be in danger;*
- b) *advising the requested State, upon request, of the protective measures and services available in the requesting State to secure the safe return of a particular child;*
- c) *encouraging the use of Article 21 of the Convention to secure the effective exercise of access or visitation rights.*

It is recognised that the protection of the child may also sometimes require steps to be taken to protect an accompanying parent."

The Special Commission affirms the important role that may be played by the requesting Central Authority in providing information to the requested Central Authority about services or facilities available to the returning child and parent in the requesting country. This should not unduly delay the proceedings.

Use of standardised forms

1.1.13 The Special Commission reaffirms the Recommendation of the Fourteenth Session of the Conference to use the standard Request for Return form.

- 1.1.14 The Special Commission recommends that the Permanent Bureau, in consultation with Contracting States, up-dates the standard Request for Return form.
- 1.1.15 The Special Commission encourages Central Authorities to use the sample forms and checklists set out in Appendix 3 to the Guide to Good Practice under the Child Abduction Convention: Part I – Central Authority Practice.

Case management and maintenance of statistics

- 1.1.16 The Special Commission reaffirms Recommendation No 1.14 of the 2001 meeting of the Special Commission:

"Central Authorities are encouraged to maintain accurate statistics concerning the cases dealt with by them under the Convention, and to make annual returns of statistics to the Permanent Bureau in accordance with the standard forms established by the Permanent Bureau in consultation with Central Authorities."

- 1.1.17 In this respect, the Special Commission welcomes the results of the iChild case management software pilot project and invites Central Authorities to consider the implementation of iChild.
- 1.1.18 The Special Commission also welcomes the development of INCASTAT, the statistical database for the 1980 Convention and invites all Central Authorities to make their annual returns of statistics using the database for which user names and passwords will be distributed in the near future.
- 1.1.19 The Special Commission, in order to promote the collection of more accurate statistics, approves the proposed amendments¹ to the existing Annual Statistical Forms.
- 1.1.20 The Special Commission expresses its gratitude to the Member States who have, through the Supplementary Budget, supported the developments of iChild and INCASTAT, and to WorldReach Software Corporation for its generosity in supporting the iChild project.
- 1.1.21 The Special Commission welcomes the Statistical Analysis of Applications made in 2003 under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.² It expresses its appreciation to the authors of the Report, and to the Nuffield Foundation which provided the funding.

¹ Set out in Appendix C of Prel. Doc. No 9, "Report on the iChild pilot and the development of the international child abduction statistical database, INCASTAT – Technology Systems in support of the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*", October 2006.

² N. Lowe, E. Atkinson, K. Horosova and S. Patterson, "A statistical analysis of applications made in 2003 under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*", Prel. Doc. No 3 of October 2006.

PART II – PREVENTIVE MEASURES

The Guide to Good Practice on Preventive Measures

- 1.2.1 The Special Commission welcomes the publication of Part III of the Guide to Good Practice on Preventive Measures.
- 1.2.2 The Special Commission recommends that Part III of the Guide to Good Practice on Preventive Measures be widely promulgated particularly to governments of Contracting States, judges, lawyers, mediators, border control officers, passport authorities and other relevant authorities and organisations.

Standardised or recommended permission form

- 1.2.3 The Permanent Bureau is requested to continue to explore the feasibility and the development of a standardised or recommended permission form in consultation with Contracting States and in co-operation with relevant international organisations which regulate international travel. The Special Commission recognises that it is necessary to have regard in the first instance to the purpose and content of the form. It was agreed that such a form would not be designed to introduce any new substantive rules but rather to operate within existing systems. The form would be non-binding and non-obligatory.

PART III – PROMOTING AGREEMENT

Securing the voluntary return of the child

- 1.3.1 The Special Commission reaffirms Recommendations 1.10 and 1.11 of the 2001 meeting of the Special Commission:

“1.10 Contracting States should encourage voluntary return where possible. It is proposed that Central Authorities should as a matter of practice seek to achieve voluntary return, as intended by Article 7 c) of the Convention, where possible and appropriate by instructing to this end legal agents involved, whether state attorneys or private practitioners, or by referral of parties to a specialist organisation providing an appropriate mediation service. The role played by the courts in this regard is also recognised.

1.11 Measures employed to assist in securing the voluntary return of the child or to bring about an amicable resolution of the issues should not result in any undue delay in return proceedings”.

Mediation

- 1.3.2 The Special Commission welcomes the mediation initiatives and projects which are taking place in Contracting States in the context of the 1980 Hague Convention, many of which are described in Preliminary Document No 5.³
- 1.3.3 The Special Commission invites the Permanent Bureau to continue to keep States informed of developments in the mediation of cross-border disputes concerning contact and abduction. The Special Commission notes that the Permanent Bureau is

³ S. Vigers, “Note on the development of mediation, conciliation and similar means to facilitate agreed solutions in transfrontier family disputes concerning children especially in the context of the Hague Convention of 1980”, Prel. Doc. No 5 of October 2006.

continuing its work on a more general feasibility study on cross-border mediation in family matters including the possible development of an instrument on the subject, mandated by the Special Commission on General Affairs and Policy of April 2006.

PART IV – PROCEEDINGS FOR RETURN

Speed of Hague procedures, including appeals

1.4.1 The Special Commission reaffirms Recommendations 3.3 to 3.5 of the of the 2001 meeting of the Special Commission:

"3.3 The Special Commission underscores the obligation (Article 11) of Contracting States to process return applications expeditiously, and that this obligation extends also to appeal procedures.

3.4 The Special Commission calls upon trial and appellate courts to set and adhere to timetables that ensure the speedy determination of return applications.

3.5 The Special Commission calls for firm management by judges, both at trial and appellate levels, of the progress of return proceedings."

Article 13, paragraph 1 b)

1.4.2 The Special Commission reaffirms Recommendation 4.3 of the 2001 meeting of the Special Commission:

"The Article 13, paragraph 1 b), "grave risk" defence has generally been narrowly construed by courts in the Contracting States, and this is confirmed by the relatively small number of return applications which were refused on this basis ...".

PART V – ENFORCEMENT OF RETURN AND CONTACT ORDERS

1.5.1 The Special Commission encourages support for the principles of good practice set out in Preliminary Document No 7.⁴

1.5.2 The Special Commission recommends that the Permanent Bureau be invited to draw up a draft Guide to Good Practice on Enforcement Issues based on Preliminary Document No 7 which takes into account the discussions on the proposed principles during the Fifth Meeting of the Special Commission and any additional information received on experiences in Contracting States. The draft should be completed with the assistance of a group of experts. As a starting point, this group should include Nigel Lowe (Consultant to the Permanent Bureau), Irène Lambreth (Belgium), Sandra Zed Finless (Canada), Suzanne Lee Kong Yin (China – Hong Kong SAR), Peter Beaton (European Community – Commission), Markku Helin (Finland), Eberhard Carl (Germany), Leslie Kaufmann (Israel), Peter Boshier (New Zealand), Petunia Seabi (South Africa), Mariano Banos (United States of America) and Ricardo Pérez Manrique (Uruguay). Before publication, the draft Guide to Good Practice should be circulated to Member States of the Hague Conference as well as other Contracting States of the 1980 Hague Convention for their comments.

⁴ A. Schulz, "Enforcement of orders made under the 1980 Convention – Towards principles of good practice", Prel. Doc. No 7 of October 2006.

- 1.5.3 The Special Commission welcomes the comparative legal study carried out by the Permanent Bureau and the empirical study carried out by Professor Lowe on the enforcement of orders made under the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*.⁵ It expresses its appreciation to the authors of the studies, and to the International Centre for Missing and Exploited Children which provided the funding for the empirical study.

PART VI – JUDICIAL COMMUNICATIONS

- 1.6.1 The Special Commission expresses support for the developments outlined in Preliminary Document No 8.⁶
- 1.6.2 The Special Commission acknowledges that effective functioning of the 1980 Hague Convention depends on the concerted efforts of all interveners in matters of international child abduction, including judges and Central Authorities on internal and international levels.

Direct judicial communications

- 1.6.3 The Special Commission reaffirms Recommendations No 5.5 and 5.6 of the 2001 meeting of the Special Commission, and underlines that direct judicial communications should respect the laws and procedures of the jurisdictions involved.

“5.5 Contracting States are encouraged to consider identifying a judge or judges or other persons or authorities able to facilitate at the international level communications between judges or between a judge and another authority.

5.6 Contracting States should actively encourage international judicial co-operation. This takes the form of attendance of judges at judicial conferences by exchanging ideas/communications with foreign judges or by explaining the possibilities of direct communication on specific cases.

In Contracting States in which direct judicial communications are practised, the following are commonly accepted safeguards:

- communications to be limited to logistical issues and the exchange of information;*
- parties to be notified in advance of the nature of proposed communication;*
- record to be kept of communications;*
- confirmation of any agreement reached in writing;*
- parties or their representatives to be present in certain cases, for example via conference call facilities.”*

Respective roles of judges and Central Authorities

- 1.6.4 The Special Commission recognises that, having regard to the principle of the separation of powers, the relationship between judges and Central Authorities can take different forms.

⁵ A. Schulz, “Enforcement of orders made under the 1980 Convention – A comparative legal study”, Prel. Doc. No 6 of October 2006; N. Lowe, S. Patterson and K. Horosova, “Enforcement of orders made under the 1980 Convention – An empirical study”, Info. Doc. No 1 of October 2006 (available in English only).

⁶ P. Lortie, “Report on judicial communications in relation to international child protection”, Prel. Doc. No 8 of October 2006.

- 1.6.5 The Special Commission continues to encourage meetings involving judges and Central Authorities at a national, bilateral or multilateral level as a necessary part of building a better understanding of the respective roles of both institutions.

Judicial conferences

- 1.6.6 The Special Commission encourages the development of the established pattern of conferences for specialist family law judges (national, bilateral and multilateral) and emphasises the importance of both the regional and global frameworks that have been developed.

Actions to be undertaken by the Permanent Bureau

- 1.6.7 In relation to future work, the Permanent Bureau in the light of the observations made during the meeting will:

- a) continue consultations with interested judges and other authorities based on Preliminary Document No 8;
- b) continue to develop the practical mechanisms and structures of the International Hague Network of Judges;
- c) continue to develop contacts with other judicial networks and to promote the establishment of regional judicial networks;
- d) maintain an inventory of existing practices relating to direct judicial communications in specific cases under the 1980 Hague Convention and with regard to international child protection;
- e) explore the value of drawing up principles concerning direct judicial communications, which could serve as a model for the development of good practice, with the advice of a consultative group of experts drawn primarily from the judiciary;
- f) explore the development of a secured system of communications for members of the International Hague Network of Judges.

- 1.6.8 The Special Commission notes the link between the work on direct judicial communications and the feasibility study to be prepared by the Permanent Bureau for the Council on General Affairs and Policy of the Conference with regard to the development of a new instrument for cross-border co-operation concerning the treatment of foreign law.

The Judges' Newsletter on International Child Protection

- 1.6.9 The Special Commission supports the continued publication of the Judges' Newsletter on International Child Protection and expressed its appreciation to LexisNexis Butterworths for publishing and distributing the Newsletter.

PART VII – TRANSFRONTIER ACCESS / CONTACT AND RELOCATION

Transfrontier access / contact

- 1.7.1 The Special Commission reaffirms the priority it attaches to ongoing work to improve transfrontier protection of rights of access / contact. It recognises the interest in this matter among many States, including those that are not Parties to the Convention of 1980 and the important role in this regard that can be played by the Convention of 1996.

- 1.7.2 Recognising the limitations of the 1980 Convention, and in particular of Article 21, the Special Commission:
- a) gives broad endorsement to the general principles and good practices set out in Preliminary Document No 4,⁷ and recommends that the Permanent Bureau, in consultation with a group of experts, amend and complete the document in the light of discussions within the Special Commission and prepare it for publication as soon as possible;
 - b) recommends that the Permanent Bureau should continue to keep States informed of developments in the mediation of transfrontier disputes concerning contact. It will also continue its work on a more general feasibility study on cross-border mediation in family matters including the possible development of an instrument on the subject, mandated by the Special Commission on General Affairs and Policy of April 2006;
 - c) recommends that the Permanent Bureau should continue to examine ways to improve the operation of Article 21 and, through international judicial conferences and by other means, to stimulate discussion of and good practice in respect of the problems surrounding transfrontier contact and international relocation of children, taking into account also the experience with the application of the 1996 Convention and with legal regimes inspired by this Convention.

1.7.3 The Special Commission recognises the strength of arguments in favour of a Protocol to the 1980 Convention which might in particular clarify the obligations of States Parties under Article 21 and make clearer the distinction between “rights of custody” and “access rights”. However, it is agreed that priority should at this time be given to the efforts in relation to the implementation of the 1996 Convention.

Relocation

- 1.7.4 The Special Commission concludes that parents, before they move with their children from one country to another, should be encouraged not to take unilateral action by unlawfully removing a child but to make appropriate arrangements for access and contact preferably by agreement, particularly where one parent intends to remain behind after the move.
- 1.7.5 The Special Commission encourages all attempts to seek to resolve differences among the legal systems so as to arrive as far as possible at a common approach and common standards as regards relocation.

PART VIII – SECURING THE SAFE RETURN OF THE CHILD

The use of protective measures

- 1.8.1 Courts in many jurisdictions regard the use of orders with varying names, *e.g.*, stipulations, conditions, undertakings, as a useful tool to facilitate arrangements for return. Such orders, limited in scope and duration, addressing short-term issues and remaining in effect only until such time as a court in the country to which the child is returned has taken the measures required by the situation, are in keeping with the spirit of the 1980 Convention.

⁷ W. Duncan, “Transfrontier access / contact – General principles and good practice”, Prel. Doc. No 4 of October 2006.

Enforceability of protective measures

- 1.8.2 When considering measures to protect a child who is the subject of a return order (and where appropriate an accompanying parent), a court should have regard to the enforceability of those measures within the country to which the child is to be returned. In this context, attention is drawn to the value of safe-return orders (including "mirror" orders) made in that country before the child's return, as well as to the provisions of the 1996 Convention.

A possible Protocol concerning protective measures

- 1.8.3 Positive consideration was given to the possibility of a Protocol to the 1980 Convention which would provide a clear legal framework for the taking of protective measures to secure the safe return of the child (and where necessary the accompanying parent). The potential value of a Protocol was recognised though not as an immediate priority.

Criminal proceedings

- 1.8.4 The Special Commission reaffirms Recommendation 5.2 of the 2001 meeting of the Special Commission:

"The impact of a criminal prosecution for child abduction on the possibility of achieving a return of the child is a matter which should be capable of being taken into account in the exercise of any discretion which the prosecuting authorities have to initiate, suspend or withdraw charges."

The Special Commission underlines that Central Authorities should inform left-behind parents of the implications of instituting criminal proceedings including their possible adverse effects on achieving the return of the child.

In cases of voluntary return of the child to the country of habitual residence, Central Authorities should co-operate, in so far as national law allows, to cause all charges against the parent to be abandoned.

The Central Authorities should also inform the left-behind parent of the alternative means available to resolve the dispute amicably.

Access to procedures

- 1.8.5 Contracting States should take measures to remove obstacles to participation by parents in custody proceedings after a child's return.

PART IX – REGIONAL DEVELOPMENTS

- 1.9.1 The Special Commission welcomes the advances made by the Permanent Bureau in further expanding the influence and understanding of the Hague Conventions through the Latin American Programme, the Africa Project and developments in the Asia Pacific Region. The value of the Hague Convention model and principles are recognised for use with non-Hague Convention States as in the context of the Malta Process.
- 1.9.2 Strong support is expressed for the effort being undertaken by the Hague Conference, through the Malta Process, to develop improved legal structures for the resolution of cross-frontier family disputes as between certain Hague Convention States and certain non-Hague Convention States.

- 1.9.3 The importance of the appointment of the Liaison Legal Officer for Latin America is welcomed and the impact already made in strengthening the operation of the Convention in the Region is recognised.

CHAPTER II – IMPLEMENTATION OF THE 1996 CONVENTION

- 2.1 The Special Commission welcomes the fact that a large number of States are in the process of implementing or considering implementation of the Hague Convention of 1996 on the international protection of children. It welcomes the support for that Convention expressed by the European Community and its Member States, as well as the efforts being undertaken to ensure that authorisation is obtained in the near future for all such States to become Parties to the Convention. The Special Commission also welcomes the fact that several American States are studying the Convention with a view to its ratification or accession.
- 2.2 The Special Commission invites the Permanent Bureau, in consultation with Member States of the Hague Conference and Contracting States to the 1980 and 1996 Conventions, to begin work on the preparation of a practical guide to the 1996 Convention which would:
- a) provide advice on the factors to be considered in the process of implementing the Convention into national law, and
 - b) assist in explaining the practical application of the Convention.
- 2.3 Recognising the limitations of the 1980 Convention, and in particular of Article 21, the Special Commission recommends that the Permanent Bureau should continue to make every effort to assist States in their consideration of the 1996 Convention and to promote its widespread ratification. This applies both to States which are Parties to the 1980 Convention and those which are not.

ANNEXE

Considérations additionnelles relatives au retour sans danger de l'enfant

* * *

APPENDIX

Additional considerations relevant to the safe return of the child

Considering that the interests of children are paramount in matters relating to their custody and that to protect children from the harmful effects of their wrongful removal or retention and to ensure the safe return of the child, it remains important to improve the procedures established for this purpose;

The Special Commission is of the view that the provisions of the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* support measures to be taken, where appropriate in a particular case, to –

1. attempt by mediation or conciliation to obtain the voluntary return of the child or the amicable resolution of the issues, in a manner that does not delay the return of the child;
2. provide an opportunity for the child to be heard, unless this appears inappropriate having regard to the child's age or degree of maturity;
3. secure the exercise of rights of access and contact, as appropriate, during the proceedings related to the application for return of the child;
4. enable or require the relevant authorities to cooperate in order to ensure access to pertinent information available in the States concerned;
5. provide for the protection of the child upon his / her return and to enquire in particular about the measures which the competent authorities of the State where the child was habitually resident immediately before its removal or retention can take for the protection of the child upon its return;
6. inform the competent authorities of the State where the child was habitually resident immediately before its removal or retention about proceedings on the application for return and any decision taken in this respect in the State where the child is;
7. assist in the implementation of protective measures, approved by the authorities in the requesting State, to provide for the protection of the child and, if necessary, the parent who removed or retained the child upon its return;
8. upon request, inform the Central Authority of the State where the return of the child has been ordered about the decision on the merits of rights of custody, rendered in the wake of such return, in so far as is permitted by the law of the State where the decision has been taken.