UNIFORM LAW CONFERENCE OF CANADA

CIVIL SECTION

REPORT OF THE DEPARTMENT OF JUSTICE CANADA ON INTERNATIONAL PRIVATE LAW 2026

Winnipeg, Manitoba
August 17–21, 2026

This document is a publication of
the Uniform Law Conference of Canada.
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Report of the Department of Justice Canada

August 2026

INTRODUCTION

1. This annual report to the Uniform Law Conference of Canada (ULCC) provides an overview of the activities undertaken by the Department of Justice Canada (Justice Canada) in the area of international private law. It outlines key developments in federal-provincial-territorial (FPT) and international cooperation, highlights ongoing initiatives led by international organizations, and details the status of implementation of international private law instruments in Canada. The report has been prepared by the Constitutional, Administrative and International Law Section of Justice Canada for presentation at the annual meeting of the ULCC Civil Section.

2. Justice Canada plays a central role in the development of policy for international private law instruments, representing Canada during the development phase of these instruments and leading the coordination of their implementation in Canada.

I. COOPERATION AND CONSULTATIONS

3. Justice Canada's work in international private law is guided by close cooperation and consultation with provincial and territorial governments, which hold primary jurisdiction over legal matters in this field. The Department also values and incorporates input from stakeholders, which plays a significant role in shaping its initiatives and priorities.

A. ADVISORY GROUP ON PRIVATE INTERNATIONAL LAW

4. The Advisory Group on Private International Law (AGPIL) is an FPT body established by Justice Canada. It comprises six representatives from the provinces and territories—representing British Columbia, the Prairie Provinces, Ontario, Quebec, the Atlantic Provinces, and the three Territories—as well as federal representatives from Justice Canada. Representatives from Global Affairs Canada (GAC) also participate on an *ad hoc* basis. AGPIL meets twice annually and provides Justice Canada with ongoing, essential advice on the provincial and territorial dimensions of international private law initiatives, including identifying areas requiring further work on issues of particular interest to the provinces and territories.

B. UNIFORM LAW CONFERENCE OF CANADA

5. Instituted in 1918, the ULCC provides independent and informed analysis and recommendations for the harmonization and reform of laws in Canada. The ULCC constitutes the key mechanism for facilitating the implementation of international private law instruments in Canada. It does this through the development of uniform implementing legislation that can be adopted by governments in Canada. Thus far, the ULCC has adopted over 20 uniform acts to implement international private law instruments. Justice Canada represents the federal government at the ULCC and actively participates in its work.

C. PRIVATE SECTOR AND LAW FACULTIES

6. Justice Canada regularly engages in consultations with the private sector—including the Canadian Bar Association—as well as with Canadian academics and other stakeholders. These consultations inform Canada's participation in ongoing and proposed projects of international organizations such as the Hague Conference on Private International Law (HCCH), the United Nations Commission on International Trade Law (UNCITRAL), and the International Institute for the Unification of Private Law (UNIDROIT).

II. INTERNATIONAL ORGANIZATIONS

A. THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

7. The Hague Conference on Private International Law, which held its first session in 1893, has 93 Members, including Canada since 1968. Its objective is to work toward the progressive unification of rules of private international law. Since its inception, over 40 conventions and instruments have been adopted under its auspices. The Council on General Affairs and Policy (CGAP), the governing body of the organization, is primarily responsible for the work programme. Further information on the HCCH is available at www.hcch.net.

8. Over the past year, Canada has actively participated in the work of the HCCH across a range of areas, including civil and commercial matters, judicial cooperation, and individual and family law (these activities are detailed in Section III). The HCCH has also launched new work on the recognition and enforcement of protection orders. In addition, it is examining several emerging issues, including applicable law and jurisdictional questions related to the cross-border use and transfer of central bank digital currencies. The HCCH is also exploring private international law implications arising from carbon markets and digital tokens, collaborating with UNCITRAL and UNIDROIT on insolvency-related matters, and monitoring developments in areas such as intellectual property and the digital economy.

9. Canada is party to six HCCH conventions: the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (in force in Canada 89/05/01); the *Convention on the Civil Aspects of International Child Abduction* (in force in Canada 83/12/01); the *Convention on the Law Applicable to Trusts and on their Recognition* (in force in Canada 93/01/01); the *Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* (in force in Canada 97/04/01); the *Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (in force in Canada 24/01/11); and the *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (in force in Canada 24/02/01).

10. In addition, on May 23, 2017, Canada signed the *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*.

11. Justice Canada continues its efforts to ensure the effective implementation and application of HCCH instruments in Canada.

B. UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

12. The United Nations Commission on International Trade Law, the core legal body within the United Nations (UN) system in the field of international trade law, aims to further the progressive harmonization and unification of the law of international trade. UNCITRAL uses various instruments to reach this goal: it has prepared or is responsible for 15 conventions, 19 model laws, model provisions, uniform rules, and several legal and legislative guides. Further information on UNCITRAL can be found at: www.uncitral.org.

13. UNCITRAL comprises 70 member States, including Canada. These member States represent various geographic regions and the principal economic systems and legal traditions of the world. Members are elected to UNCITRAL for a six-year term by the UN General Assembly. Other States and international governmental and non-governmental organizations may participate as observers in its annual meetings and working groups.

14. This summer, UNCITRAL adopted texts on the recognition and enforcement of arbitral awards and notices in electronic form. It also confirmed that work will continue on draft default rules for data provision contracts. UNCITRAL further decided that it would continue its work on the applicable law in insolvency proceedings and review updated drafts of the 2009 UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation. The Commission launched new work on remote arbitration and mediation, secured transactions and digital

tokens, the consolidation of UNCITRAL texts on electronic commerce and paperless trade, and procurement.

15. Canada is party to three UN conventions relating to international commercial law: the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (in force in Canada 86/08/10), the *United Nations Convention on Contracts for the International Sale of Goods (*in force in Canada 92/05/01), and the *United Nations Convention on Transparency in Treaty-based Investor-State Arbitration* (in force in Canada 17/10/18).

16. Legislation implementing the UNCITRAL Model Law on International Commercial Arbitration (1985) has been adopted in Canada, and the 2006 revisions to the Model Law have been incorporated in the 2014 ULCC Uniform International Commercial Arbitration Act, which applies to British Columbia and Ontario. Legislation based on the UNCITRAL Model Law on Cross-Border Insolvency (1997) has been adopted federally, and legislation drawing on the UNCITRAL Model Law on Electronic Commerce (1996) has been adopted by all Canadian jurisdictions.

C. THE INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

17. The International Institute for the Unification of Private Law, based in Rome, was initially established in 1926 as an auxiliary organ of the League of Nations. Since 1940, it has been an independent inter-governmental organization. UNIDROIT comprises 65 member States, including Canada, which joined the organization in 1968. Its mandate is to modernize, harmonize and co-ordinate private and commercial law as between States. Since its creation, UNIDROIT has drafted more than 70 studies, model laws and conventions on various private law subjects including sales, international leasing and factoring, transport, security interests, franchising and cultural property. Further information on UNIDROIT can be found at: www.unidroit.org.

18. UNDROIT's proposed work programme for 2026–2028 includes the legal nature of verified carbon credits; the modernization, harmonization and standardization of investment contracts between States, and state-owned enterprises and private foreign investors; private art collections; a guide on the legal structure of agricultural enterprises; as well as corporate sustainability and due diligence in global value chains. It also proposes new work on Legal and Regulatory Aspects of Investment-Based Crowdfunding (debt and equity), the insolvency of insurance enterprises and the harmonization of national regimes, and construction and engineering contract law.

19. In May 2026, UNIDROIT's governing body approved the Best Practices for Effective Enforcement, the outcome of a dedicated working group, setting out recommended procedures and mechanisms to enforce creditors' claims effectively while safeguarding the legal rights of debtors and third parties. It also noted the progress achieved in the development of the joint UNIDROIT/Food and Agricultural Organization (FAO) of the UN/International Fund for Agricultural Development (IFAD) project on Collaborative Legal Structures for Agricultural Enterprises. The UNIDROIT Secretariat was authorized to proceed with open consultations before submitting the final draft for approval in December 2026. The governing body also authorized the Secretariat to proceed with the public consultation of the Principles on the Legal Nature of Verified Carbon Credits and directed it to submit the Principles for approval in December 2026.

20. Canada is party to two of the thirteen UNIDROIT conventions and to one protocol: the *Convention Providing a Uniform Law on the Form of an International Will* (in force in Canada 78/02/09) and the *Convention on International Interests in Mobile Equipment* and its related *Aircraft Protocol* (in force in Canada 13/04/01).

D. WORLD BANK

21. The World Bank's role in the field of international private law stems in part from the creation of the International Centre for the Settlement of Investment Disputes (ICSID) under the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States* (ICSID Convention) (in force in Canada 13/01/12). The World Bank also proposes projects of joint interest to UNCITRAL and UNIDROIT and participates in related work. Further information on the World Bank and the ICSID Convention can be found at: www.worldbank.org.

E. COMMONWEALTH

22. As part of its support to meetings of Law Ministries of the Commonwealth, the Commonwealth Secretariat carries out work in international private law from time to time. For example, Canada supported work, which is now completed, on draft model legislation on the recognition and enforcement of foreign judgments.

F. THE ORGANIZATION OF AMERICAN STATES

23. The Organization of American States (OAS), which comprises 34 member States, including Canada, provides a forum for legal, political, economic, social and cultural cooperation in the Americas. The OAS Inter-American Conference on Private International

Law (CIDIP) has developed over 25 private international law conventions. Since the seventh and last CIDIP in 2009, the Inter-American Juridical Committee, which serves as an advisory body within the OAS, has taken on a more active role in harmonizing private law through the development of non-binding instruments. Further information on the OAS can be found at: www.oas.org. Of note, Canada is not party to any of the OAS international private law conventions.

III. EXPLORATORY WORK AND INTERNATIONAL NEGOTIATIONS

A. INTERNATIONAL COMMERCIAL LAW

a. Data provision contracts (UNCITRAL)

24. In 2022, UNCITRAL undertook the development of default rules for data provision contracts. Since then, its Working Group has continued refining these rules, focusing on key legal aspects such as definitions, scope, methods of data provision, data conformity, usage rights, derived data, and available remedies. This work aims to enhance legal clarity and certainty in data transactions, especially in the context of cross-border data flows.

25. The resulting default rules are structured around specific legal issues rather than party-based obligations. While they do not address contract formation, they offer guidance on remedies in cases of non-performance. The rules are designed to be flexible and applicable to a wide range of data provision models, including decentralized and centralized data exchanges, as well as one-off, periodic, or continuous data delivery. Importantly, the rules recognize that different contractual arrangements may be necessary depending on which party retains control over the data.

26. Deliberations on this topic by the UNCITRAL Working Group will continue into the next year.

B. JUDICIAL COOPERATION AND ENFORCEMENT OF JUDGMENTS

a. Jurisdiction Project (HCCH)

27. Justice Canada is participating in an HCCH Working Group that is developing draft provisions for an instrument on parallel proceedings, related action and judicial cooperation and communications when parallel proceedings and related actions are involved. The Working Group concluded its work in fall 2025, and the Permanent Bureau of the HCCH subsequently carried out a written consultation process to gather feedback from future

operators of the envisaged instrument, in particular practitioners and judges. The 94 consultation submissions reaffirmed deeply rooted divergence between legal traditions in their approaches to parallel proceedings and related actions. Many respondents expressed significant reservations about the project and about the operability of the draft convention; even those generally supportive identified numerous issues and often proposed solutions grounded in legal tradition-specific preferences that are unlikely to attract consensus. In light of these results, CGAP decided not to launch intergovernmental negotiations and instead mandated the Permanent Bureau to analyse the consultation submissions and map the key legal and practical issues in relation to the draft text. CGAP will decide at its 2027 meeting whether intergovernmental negotiations should be launched on this project.

C. INDIVIDUAL AND FAMILY LAW

a. Parentage/Surrogacy Project (HCCH)

28. Justice Canada participated in the HCCH Working Group established in 2023 on private international law matters related to legal parentage, including legal parentage resulting from an international surrogacy arrangement. The Working Group was tasked with exploring provisions relating to a new instrument on these matters, if possible, and further inform CGAP of the policy considerations regarding the scope and content of such an instrument, including the feasibility of reaching consensus. It worked with the understanding that the aim of any new instrument would be "to provide greater predictability, certainty, and continuity of legal parentage in international situations for all persons concerned, taking into account their human rights, including, for children, those enshrined in the *United Nations Convention on the Rights of the Child,* and in particular, their right [to have] their best interests be a primary consideration in all actions taken concerning them."

29. The Working Group presented its final report to CGAP in March 2026. The report noted that policy differences remained, and that consensus could not be reached on whether to advance the Project to a Special Commission (i.e. to begin intergovernmental negotiations on a draft Convention).

30. While recognising the progress made by the Working Group, CGAP decided not to convene a Special Commission for the time being, with the understanding that the issue could be revisited at a later stage. It also tasked the Permanent Bureau with monitoring legal and practical developments in the area of legal parentage and international surrogacy, and reporting to CGAP in advance of its 2028 meeting.

IV. INTERNATIONAL INSTRUMENTS APPLICABLE TO CANADA AND POST-IMPLEMENTATION WORK

A. INTERNATIONAL COMMERCIAL LAW

a. Model Law on International Commercial Arbitration (1985, amended in 2006) (UNCITRAL) - Uniform International Commercial Arbitration Act (ULCC)

31. The UNCITRAL Model Law on International Commercial Arbitration, adopted in 1985, provides a comprehensive framework for all stages of the arbitral process—from the arbitration agreement to the recognition and enforcement of awards. Widely adopted across diverse legal and economic systems, it reflects a global consensus on key aspects of international arbitration.

32. In 1986, the ULCC developed the Uniform International Commercial Arbitration Act (Uniform ICAA) to implement the Model Law and the 1958 New York Convention. The Uniform ICAA was adopted by all Canadian jurisdictions with only minor amendments.

33. UNCITRAL revised the Model Law in 2006 to introduce a framework for interim measures and to modernise form requirements in line with contemporary international contract practices. The ULCC Working Group completed its review in 2013 and recommended adoption of the amendments.

34. The updated ICAA has since been enacted in Ontario, British Columbia and Prince Edward Island. It remains highly relevant, and other jurisdictions may wish to consider its adoption.

b. Convention on the Settlement of Investment Disputes between States and Nationals of Other States (World Bank)

35. The ICSID Convention, prepared under the auspices of the World Bank in 1965, establishes rules and a venue for conciliation or arbitration of international investment disputes. It applies to disputes between States and nationals (investors) of other State parties.

36. The Convention has 158 Contracting States including Canada (since December 1, 2013) and its main trading partners. It has been implemented at the federal level and in Ontario, Saskatchewan, British Columbia, Newfoundland and Labrador, Nunavut, the Northwest Territories and Alberta.

37. Provisions on ICSID arbitration are commonly found in free trade agreements such as the Canada-United States-Mexico Agreement (CUSMA) and in foreign investment protection agreements (FIPAs). FIPAs are advance agreements by governments to submit investment disputes to ICSID arbitration. ICSID arbitration clauses may also be included in specific agreements between foreign investors and a state or province. Awards rendered by ICSID are enforceable in any state that is a party to the Convention as if they were final court judgments of that state.

c. Canada-UK Convention on the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters

38. The *Canada-UK Convention on the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters* is a bilateral convention between Canada and the United Kingdom and Northern Ireland. Judgments obtained in one country can be recognized and enforced in the other if certain conditions are met. It applies to all provinces and territories except for Quebec and Nunavut.

d. Convention on International Interests in Mobile Equipment and its Protocols (UNIDROIT)

39. The Convention and Aircraft Protocol entered into force internationally on March 1, 2006, and in Canada on April 1, 2013. The Convention applies in 90 States, and the Protocol applies in 87 States, including the United States and European Union member States. All Canadian provinces and territories have implemented the Convention and Aircraft Protocol by adopting the 2002 ULCC uniform implementing legislation. Legislation implementing the Convention and Aircraft Protocol is also found at the federal level for matters falling under federal jurisdiction.

40. The Convention provides a framework for the creation of international interests in diverse categories of mobile equipment, priority rules, and an international registry in which those interests can be registered. The Convention includes four protocols, one for each type of mobile equipment—aircraft equipment, mining, agricultural and construction equipment ("MAC" equipment), railway rolling stock, as well as satellites and other space assets.

41. The Railway Protocol entered into force internationally on March 8, 2024. It does not apply to Canada. The Convention's other protocols have not yet entered into force.

42. Justice Canada will continue to monitor the application of the Convention and Aircraft Protocol in Canada. Stakeholders and provincial and territorial governments will be consulted on their interest in the MAC Protocol.

B. JUDICIAL COOPERATION AND ENFORCEMENT OF JUDGMENTS

a. 1961 Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (HCCH)

43. Canada is now among the Apostille Convention's 129 Contracting States (in force in Canada as of January 11, 2024). Apostille certificates issued under the Convention facilitate the cross-border acceptance of public documents. Public documents, such as incorporation, marriage and birth certificates, diplomas and transcripts are used in cross-border contexts for a variety of business and personal reasons. The HCCH estimates that 30 to 35 million Apostilles are issued yearly. The HCCH has also stated that according to an independent experts' study, the economic benefit of the Convention in Contracting States amounts to more than half a billion Euros each year.

b. 1965 Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (HCCH)

44. The Convention has 84 Contracting States, including Canada. It sets out mandatory rules for the service of judicial documents in civil or commercial matters from one Contracting State to another.

45. When Canada acceded to the Convention in 1988, provincial and territorial governments implemented it by amending their rules of civil procedure. In recent years, the Convention's application has increasingly been the object of litigation in Canada. The Uniform Rules on Service in a Contracting State to the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (Uniform Rules), adopted by the ULCC in November 2015 and recommended to jurisdictions for adoption. They were developed in response to recent case law and to promote the uniform application of the Convention. Alberta, Saskatchewan, and Manitoba have amended their rules of civil procedure based on the Uniform Rules.

46. Justice Canada continues to monitor the functioning of the Convention in Canada. It also participates in work at the HCCH relating to the Convention, including recent work on the newly published Good Practices Document for Central Authorities and other designated Authorities under the Convention.

C. INDIVIDUAL AND FAMILY LAW

a. 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (HCCH)

47. The *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (2007 Convention) provides a legal framework for the cross-border recognition, enforcement, establishment, and modification of maintenance orders and agreements. It also establishes a system of administrative cooperation by requiring each Contracting State to designate a Central Authority. For federal States like Canada, the Convention allows the designation of a Central Authority for each territorial unit (i.e., province or territory) to which the Child Support Convention has been extended.

48. The 2007 Convention entered into force internationally on January 1, 2013. There are currently 56 Contracting Parties, including the United States and the European Union, whose approval binds its member States (an exception had been made for Denmark but it subsequently joined the Convention).

49. To date, the 2007 Convention applies at the federal level through amendments to the Divorce Act (in force February 2024) and through implementing legislation in three provinces: Manitoba, Ontario and British Columbia.

50. The 2007 Convention has been in force in Ontario and Manitoba since February 1, 2024, and in British Columbia since March 1, 2024.

51. Nova Scotia, Saskatchewan and Quebec have also adopted the necessary implementing legislation, which is not yet in force, and are actively working toward operational implementation. The application of the 2007 Convention is expected to be extended to these provinces in due course.

52. Justice Canada remains actively involved in the work of the HCCH pertaining to this Convention, including work on country profiles, forms, and the international transfer of funds. The text of the Convention, explanatory report, and related practical documents are available on the HCCH website.

b. 1980 Convention on the Civil Aspects of International Child Abduction (HCCH)

53. The *Convention on the Civil Aspects of International Child Abduction* (Child Abduction) provides a legal process through which a left-behind parent can apply for the prompt return of a child wrongfully removed to, or retained in, another Contracting State

in breach of custody rights. The Convention aims to protect children internationally from the harmful effects of their wrongful removal or retention and seeks to ensure that any determination of custody or access is made in the child's country of habitual residence. It also establishes a system of administrative cooperation by requiring that each Contracting State designate a Central Authority. These Authorities fulfil a series of duties under the Convention, such as assisting with locating the child, taking measures to secure the voluntary return of the child, providing information on the court application process, or initiating the judicial proceedings, etc. Central Authorities also provide assistance in organizing or securing the effective exercise of rights of access to a child. For federal States like Canada, the Convention allows the designation of a Central Authority for each territorial unit (i.e., a province or territory).

54. There are currently 103 Contracting Parties to the Convention including Canada. This was the first HCCH Convention to be ratified by Canada and brought into force in all Canadian jurisdictions.

55. Justice Canada continues to actively participate in HCCH work pertaining to this Convention and to advocate for other States to join this Convention, notably through the activities of the Malta Process.

56. The Malta Process is a dialogue between States that are party to at least one of the Child Abduction, Child Protection, or Child Support Conventions, and, non-Contracting States whose legal systems are based on, or inspired by, Islamic law. It is aimed at improving co-operation in cross-border family disputes involving children with a view to finding solutions in situations where the relevant international legal framework is not applicable.

57. The text of the Convention, explanatory report, and related practical documents are available on the HCCH website.

c. Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (HCCH)

58. The *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Adoption Convention) establishes procedural safeguards to ensure that international adoption takes place in the best interests of the child and with respect for their fundamental rights. It also establishes a system of cooperation between States of origin and receiving States to ensure the respect of those safeguards and thereby prevent the abduction, sale, and trafficking of children. Finally, it secures the recognition in Contracting States of adoptions made in accordance with the Convention.

59. There are currently 107 States that are party to the Convention, including Canada since 1997, where it applies in all provinces and territories. Last March, CGAP mandated the Permanent Bureau to continue preparations for the Sixth Meeting of the Special Commission to review the practical operation of the 1993 Adoption Convention.

60. Justice Canada remains actively involved in the work of the HCCH pertaining to this Convention. The text of the Convention, explanatory report, and related practical documents are available on the HCCH website.

D. PROTECTION OF PROPERTY

a. Convention Providing a Uniform Law on the Form of an International Will (UNIDROIT)

61. The *Convention Providing a Uniform Law on the Form of an International Will* establishes the form of an international will which is recognized as valid in all Contracting States without reference to the private international law rules concerning the validity of wills.

62. The Convention currently applies to 13 States, including Canada, where it has been extended to all jurisdictions apart from the Northwest Territories, Nunavut, and Quebec. The adoption by these jurisdictions of implementing legislation, such as the ULCC Uniform Wills Act (2015, as amended in 2016), and the subsequent extension of the application of the Convention to them would allow a greater number of Canadians to benefit from the Convention.

b. Convention on the Law Applicable to Trusts and on their Recognition (HCCH)

63. The *Convention on the Law Applicable to Trusts and on their Recognition* provides rules to determine the law applicable to foreign trusts. It also governs the recognition of these trusts by Contracting States.

64. The Convention is currently in force in 14 States, including Canada, where it has been extended to all jurisdictions apart from Quebec, Nunavut, the Yukon, and the Northwest Territories. The adoption of implementing legislation, such as the ULCC Uniform Act to Implement the Convention on the Law Applicable to Trusts and on their Recognition (2020), by these jurisdictions and the subsequent extension of the application of the Convention to them would allow a greater number of Canadians to benefit from the Convention.

V. OTHER INTERNATIONAL INSTRUMENTS OF INTEREST

A. INTERNATIONAL COMMERCIAL LAW

a. Model Clauses on Specialized Express Dispute Resolution (SPEDR Model Clauses) (UNCITRAL)

65. The UNCITRAL Model Clauses on Specialized Express Dispute Resolution (SPEDR Model Clauses) were adopted by UNCITRAL in July 2024. They consist of four model clauses:

- the Model Clause on Highly Expedited Arbitration
- the Model Clause on Adjudication
- the Model Clause on Technical Advisor[s]
- the Model Clause on Confidentiality

66. The purpose of the SPEDR Model Clauses is to provide a legal framework for simplified and accelerated dispute resolution mechanisms involving a third party with relevant expertise. These mechanisms aim to resolve disputes within a short time frame and may not result in a final award, but the outcomes are still enforceable across borders. The SPEDR Model Clauses build upon the existing framework of the UNCITRAL Expedited Arbitration Rules (EARs).

67. As an extension of the EARs, the SPEDR Model Clauses offer a practical tool for commercial parties to consider including in their contracts.

b. Early dismissal and preliminary determination in international commercial arbitration (UNCITRAL)

68. In July 2023, UNCITRAL adopted a guidance text on early dismissal and preliminary determination in international commercial arbitration. This text was added as Note 21 to the *UNCITRAL Notes on Organizing Arbitral Proceedings (2016).*

69. The revised *UNCITRAL Notes on Organizing Arbitral Proceedings (2016)* are intended to assist arbitration practitioners by providing an annotated list of issues that an arbitral tribunal may wish to address during the proceedings. These include selecting arbitration rules, determining the language and place of arbitration, addressing confidentiality, conducting hearings, taking evidence, and setting requirements for filing or delivering an award. The Notes are applicable in both *ad hoc* and institutional arbitrations.

70. The revised Notes are a valuable resource for parties to arbitration, arbitral tribunals, arbitral institutions, and for academic and training purposes.

c. Negotiable Cargo Documents (UNCITRAL)

71. The UN Convention on Negotiable Cargo Documents creates a new type of document of title that will be known as a "negotiable cargo document." The negotiable cargo document will perform a function analogous to a maritime bill of lading and could be used for the carriage of goods by any mode of transport in a multimodal or unimodal context.

72. Access to negotiable cargo documents will allow importers to sell their goods while they are in transit through the transfer of these documents. Importers will also be able to use these documents as collateral to finance the purchase of goods and to guarantee payment to exporters. In addition, the Convention will support the use of negotiable cargo documents issued electronically, which will help facilitate the transfer of these documents.

73. The UN General Assembly (UNGA) adopted the Convention in December 2025. It will be open for signature and ratification by States, in Accra, Ghana in fall 2026. Consultations may be undertaken at an appropriate time to determine Canada's interest in becoming party to the Convention.

d. UNCITRAL/UNIDROIT Model Law on Warehouse Receipts

74. The UNCITRAL/UNIDROIT Model Law on Warehouse Receipts was adopted by UNCITRAL in June 2024. The Model Law was developed as a joint project of UNCITRAL and UNIDROIT. It provides a legal framework that covers the private law aspects of a warehouse receipt system for adoption by States seeking to legislate or reform their legislation in this area. It contemplates the issuance and transfer of both paper-based and electronic warehouse receipts on a medium-neutral and technology-neutral basis. This allows the use of central registries, distributed ledgers, platforms and other technologies for managing electronic warehouse receipts.

75. The Model Law may be a useful tool for jurisdictions in Canada wishing to modernise their warehouse receipt legislation.

e. Convention on International Settlement Agreements Resulting from Mediation and related modifications to the Model Law on International Commercial Mediation (UNCITRAL)

76. In July 2018, UNCITRAL adopted two instruments aimed at promoting the use of

mediation in resolving international disputes:

- the *Convention on International Settlement Agreements Resulting from Mediation* (commonly known as the Singapore Convention), and
- the revised *UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation* (2018 Model Law), which updates the 2002 Model Law on International Commercial Conciliation.

77. These instruments establish a harmonized legal framework for the right to invoke and enforce international settlement agreements resulting from mediation.

78. Preliminary discussions will be undertaken to assess Canada's potential interest in becoming a party to the Convention and/or adopting the revised Model Law.

f. United Nations Convention on the Use of Electronic Communications in International Contracts (UNCITRAL) – ULCC Uniform Electronic Communications Convention Implementation Act

79. The *United Nations Convention on the Use of Electronic Communications in International Contracts* (ECC) recognizes the equivalence of paper and electronic communications in the conclusion and performance of contracts between parties located in different States. The Convention applies to business-to-business transactions. The Convention entered into force internationally on March 1, 2013, and currently has 18 Contracting States.

80. In addition to providing substantive rules on the use of electronic communications for parties to international contracts, the Convention applies to the use of electronic communications in connection with the formation or performance of a contract to which existing international conventions apply. The Convention also applies to any international convention to which a state may become party. A state may, however, make a declaration of non-application of this Convention in respect of one or more Conventions to which it is or becomes a party. The Convention includes a federal state clause which would allow Canada to become party to it even if the Convention is not implemented in all Canadian jurisdictions.

81. Ontario and Saskatchewan have adopted legislation based on the ULCC *Uniform Electronic Communications Convention Implementation Act*. This uniform Act was replaced in 2020 by the Uniform Act to Implement the United Nations Convention on the Use of Electronic Communications in International Contracts, which remains highly relevant. Provincial and territorial governments may wish to explore the potential advantages of implementing the Convention through the adoption of this Act.

g. Convention on the Limitation Period in the International Sale of Goods and Protocol (UNCITRAL)

82. The Convention and its amending Protocol grew out of the work of UNCITRAL to unify international sales law. They entered into force internationally on August 1, 1988. There are 30 States that are party to the Convention and 23 States that are party to the Convention as amended by the Protocol including, in both cases, Canada's CUSMA trading partners. Canada is not a party to the Convention nor to the Convention as amended by the Protocol.

83. The Convention and its amending Protocol establish a standard limitation period of four years for the initiation of legal proceedings arising from contracts for the international sale of goods. They align with the 1980 *United Nations Convention on Contracts for the International Sale of Goods*, which is in force throughout Canada. There is substantial similarity between these conventions, in particular their scope of application, possible declarations and reservations, the federal-state clauses, and the final clauses.

84. In 1975–76, the ULCC adopted a uniform act to implement the 1974 Limitation Convention. In August 1998, it adopted the Uniform International Sales Conventions Act, which is designed to implement the *United Nations Convention on Contracts for the International Sale of Goods* and the *Convention on the Limitation Period in the International Sale of Goods* and its amending Protocol. Nunavut and Ontario have adopted implementing legislation based on the 1998 Uniform Act.

85. Provincial and territorial governments may wish to explore the potential advantages of implementing the Convention.

h. Model Law on Automated Contracting (MLAC) (UNCITRAL)

86. UNCITRAL adopted the Model Law on Automated Contracting (MLAC) at its 57th session in July 2024. The Guide to Enactment was then finalized during a Working Group session in November 2024.

87. The MLAC provides a legal framework to support the use of automation—including artificial intelligence, smart contracts, and machine-to-machine transactions—in international contracting. It complements existing electronic transaction laws, particularly the Model Law on Electronic Commerce (1996) and the *United Nations Convention on the Use of Electronic Communications in International Contracts* (2005).

88. Key features of the MLAC include:

- Legal recognition of automated systems in contract formation and performance.
- Technology neutrality and non-discrimination against electronic means.
- Party autonomy, allowing parties to choose whether and how to use automation, within the bounds of mandatory law.

89. International developments on the Convention will be monitored.

i. Convention on the Assignment of Receivables in International Trade (UNCITRAL)

90. The Convention was adopted by UNCITRAL in 2001. The United States and Liberia have been party to the Convention since 2019 and 2005, respectively. It will come into force internationally when it has three more parties. In 2007, the ULCC adopted the Uniform Assignment of Receivables in International Trade Act.

91. The Convention seeks to facilitate financing by removing the uncertainty encountered in various legal systems as to recognition and effects of assignments in which the assignor, the assignee, and the debtor are not in the same country.

92. International developments on the Convention will continue to be monitored.

j. Identity Management and Trust Services (UNCITRAL)

93. In July 2022, UNCITRAL adopted the Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services. The text of the Model Law and accompanying explanatory notes are available on the UNCITRAL website.

94. Identity management refers to a set of processes used to manage the identification, authentication, and expression of consent by individuals and legal entities in online legal relationships. A trust service is an electronic service that ensures certain qualities of a data message. It includes methods for creating and managing electronic signatures, electronic seals, electronic time stamps, website authentication, electronic archiving, and electronic registered delivery services.

95. International developments on the Convention will be monitored.

B. JUDICIAL COOPERATION AND ENFORCEMENT OF JUDGMENTS

a. 2019 Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (HCCH)

96. The Convention was adopted by the HCCH on July 2, 2019, and came into force internationally on September 1, 2023. It has 33 Contracting Parties including EU member States (excluding Denmark), the United Kingdom, Ukraine, and Uruguay. In addition, Costa Rica, Israel, Kosovo, North Macedonia, the Russian Federation, and the United States have signed the Convention.

97. The Convention facilitates the effective international circulation of judgments in civil or commercial matters. By setting forth commonly accepted conditions for recognition and enforcement—and agreed grounds for refusal—the Convention provides legal certainty and predictability to parties involved in cross-border transactions. In so doing, it also enhances access to justice (by reducing legal timeframes, costs, and risks in cross-border situations) and contributes to the creation of a national and international environment conducive to multilateral trade and investment. The Convention and the Explanatory Report on the Convention, which was prepared by the co-Rapporteurs Professors Geneviève Saumier (Canada), then of the Faculty of Law at McGill University, and Francisco Garcimartín (Spain), are available on the HCCH website.

98. Subject to a more detailed analysis, the Convention appears to be broadly compatible with existing Canadian law and not to pose any major difficulties that could not be addressed by way of declaration. If Canada were to become a party to the Convention, Canadian judgments would be more easily recognized and enforced in other Contracting States. Of note, the instrument contains clauses that would allow Canada to extend its application only to those provinces and territories that have adopted the implementing legislation.

99. International developments will continue to be monitored. Justice Canada will participate in ULCC's work on uniform implementing legislation.

b. 2005 Convention on Choice of Court Agreements (HCCH)

100. The Convention sets out rules for when a court must assume jurisdiction or refuse to do so where commercial parties have entered into an exclusive choice of court agreement. It also provides for the recognition and enforcement of resulting judgments and an option for Contracting States to agree, on a reciprocal basis, to recognize judgments based on a choice of court agreement that is not exclusive.

101. The Convention came into force internationally in 2015 and has 39 Contracting Parties, including the United Kingdom and all member States of the European Union. The United States signed the Convention in 2009.

102. From a Canadian perspective, it is worth noting that the Convention:

- provides a mechanism allowing a state to exclude specific matters from the application of the Convention;
- allows a court recognizing a foreign judgment to reduce the amount of the foreign award in certain circumstances;
- excludes maritime law, competition law and intellectual property from its primary scope; and
- ensures that courts in Canada retain the power to transfer cases.

103. Although the Convention is quite limited in scope and allows Contracting States to create broad exceptions, the frequency of choice of court agreements in commercial matters makes the Convention a useful tool for commercial parties doing business across borders.

104. Two reports reviewing the Convention in light of Canadian civil and common law were presented to the ULCC in 2007 and remain useful sources for jurisdictions considering implementation. Ontario and Saskatchewan have adopted implementing legislation based on the ULCC Uniform Act to Implement the Convention on Choice of Court Agreements. The Uniform Act continues to hold significant relevance, and provincial and territorial governments may wish to explore the potential advantages of implementing the Convention.

c. Model Law on Recognition and Enforcement of Insolvency-related Judgments (UNCITRAL)

105. UNCITRAL adopted the Model Law on Cross-border Recognition and Enforcement of Insolvency-related Judgments in July 2018. The Model Law aims to promote cross-border insolvency coordination and the effectiveness of court orders in foreign jurisdictions. In developing the Model Law, UNCITRAL considered several issues including the types of judgments that should be covered, procedures for recognition, and grounds for refusing recognition. Canada's objectives were to ensure that the project aligned with existing provincial and territorial legislative frameworks on the recognition and enforcement of foreign judgments, and to promote the recognition of Canadian judgments abroad.

d. Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (HCCH)

106. The Evidence Convention has 69 Contracting States including Canada's major trading partners. It seeks to facilitate and streamline the procedures for taking evidence abroad in civil or commercial matters by providing for the taking of evidence by means of Letters of Request and by diplomatic or consular agents and commissioners. It also establishes a Central Authority mechanism in each Contracting State to facilitate the transmission and processing of such requests.

107. Justice Canada consulted provincial and territorial governments as well as other stakeholders to assess domestic interest in Canada becoming party to the Convention. Those consulted did not identify this work as a priority. Provincial and territorial governments agreed to monitor interest in the Convention within their respective jurisdictions, and Justice Canada agreed to remain apprised of relevant international developments.

C. INDIVIDUAL AND FAMILY LAW

a. 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (HCCH)

108. The *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* (Child Protection Convention) was adopted in 1996. It establishes private international law rules that apply to a variety of cross-border matters involving the protection of children including the following: parental responsibility and its delegation; custody and access rights; guardianship, curatorship and analogous institutions; the designation and functions of any person or body having charge of the child's person or property, or representing or assisting the child; child welfare issues including the placement of the child in a foster family or in institutional care, or the provision of care by kafala or an analogous institution; the supervision by a public authority of the care of a child by any person having charge of the child; and the administration, conservation or disposal of the child's property.

109. The Child Protection Convention came into force internationally in January 2002 and has 58 Contracting States, including all 27 States of the European Union, Australia, Switzerland, and the United Kingdom. The ULCC adopted a Uniform Act to implement the Child Protection Convention in 2001 and a revised Uniform Act in 2019.

110. On May 23, 2017, Canada signed the Child Protection Convention. It was implemented federally as part of a package of amendments to the *Divorce Act* (S.C. 2019, c. 16). If the Child Protection Convention is ratified by Canada, these amendments would be brought into force to coincide with the coming into force of the Convention in Canada.

111. Canada remains actively involved in the work of the HCCH pertaining to this Convention including that of the Working Group on Article 33 of the Convention. Justice Canada undertakes a range of activities to promote the understanding of the Child Protection Convention and its benefits, including organizing regular FPT meetings on the matter.

112. The text of the Convention, explanatory report, and related practical documents are available on the HCCH website.

b. Convention on the International Protection of Adults (HCCH)

113. The *Convention on the International Protection of Adults* came into force internationally in 2009 and has 16 Contracting States. It aims to address private international law issues arising in the cross-border protection of adults who, by reason of an impairment or insufficiency of their personal faculties, are not able to protect their interests. It does this by harmonizing private international law rules applicable to the protection of the person or the property of these adults and establishing a structure for effective co-operation on such cases between Contracting States.

114. The ULCC adopted a uniform Act to implement the Convention in 2000 and a revised uniform Act in 2019. In addition, in 2016, the ULCC adopted the Uniform Interjurisdictional Recognition of Substitute Decision-Making Documents Act, which addresses the recognition of documents granting powers of representation – a matter also covered by the Convention. The Uniform Act provides two options to deal with the question of applicable law, one of which is consistent with the Convention.

115. Justice Canada participated in the HCCH Working Group that developed various practical tools to support the Convention's implementation and operation (these tools are available on the HCCH website). Justice Canada sought input on these tools from an informal FPT group it established in 2019. The group was reconvened in 2025 and met several times to deepen participants' understanding of the Convention.

116. Implementation work will continue in collaboration with other relevant federal departments as well as provincial and territorial governments.

D. PROTECTION OF PROPERTY

a. Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT)

117. The *Convention on the Return of Stolen or Illegally Exported Cultural Objects* was finalized in 1995. It sets out rules for the restitution or return of stolen or illegally exported cultural objects, subject to certain limitation periods. The Convention also provides for compensation of bona fide purchasers and addresses the issue of the proper jurisdiction in which to bring a claim. There are currently 56 States that are party to the Convention.

118. Model Provisions on State Ownership of Undiscovered Cultural Objects were developed by a Group of Experts convened by the UNESCO and UNIDROIT Secretariats. They are intended to be used in drafting new provisions or in adapting existing provisions governing state ownership of such objects. Furthermore, the Model Provisions seek to facilitate the restitution of cultural objects in case of unlawful removal and the implementation of the Convention.

119. The UNIDROIT Secretariat continues its efforts to promote the Convention and the Model Legislative Provisions in partnership with other intergovernmental organizations, such as UNESCO, with a view to protecting cultural objects and combating terrorism and transnational organized crime. Successful initiatives include the establishment in 2017 of an Informal Ratification Task Force as well as establishment of the 1995 UNIDROIT Convention Academic Project (UCAP), whose main objective is to promote a favourable legal environment for the restitution or return of stolen or illegally exported cultural objects through knowledge sharing and the dissemination of information about the Convention.

120. Assistance will be provided to the Department of Canadian Heritage on consultations related to the Convention when needed.

CONCLUSION

121. This report presented an overview of Justice Canada's activities in international private law. It also covered FPT and external cooperation in international private law, the current work of international organizations involved in this area of the law, and the status of the implementation of international private law instruments in Canada.