



# Peter Nygh Hague Conference Internship 2011

## REPORT

Hague Conference on Private International Law

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September 2011 – February 2012

## Introduction

From September 2011 until February 2012, I had the privilege of working as the Peter Nygh Hague Conference Intern at the Hague Conference of Private International Law. This opportunity was available as a result of the valuable work and sponsorship offered by a number of organisations and individuals in Australia and The Hague.

I would like to begin by thanking all of those who contribute to the Peter Nygh Hague Conference Internship in different capacities. In particular, thank you to the Commonwealth Attorney-General's Department for its generous support and to the Australian Institute of International Affairs and the Australian Branch of the International Law Association for their work in promoting the internship. I would also like to give my gratitude to the Nygh family and in particular, Nicola Nygh who was a valuable contact throughout my internship experience. In addition, I would like to thank Katie Price, Alexander Kunzelmann and Kim Pham, three previous Nygh interns who helped me feel right at home in The Hague. Finally, I would like to thank everyone at the Hague Conference, all of whom I have great admiration and respect for and who made me feel like a part of the team. Special thanks must go to Marta Pertegás and Maryze Berkhout who provided me with invaluable advice, assistance and friendship during my stay.

I applied for the Peter Nygh Hague Conference Internship because of my interest in developing ways of making the law more accessible and understandable. I have always been overwhelmed by the way that access to justice is impaired by complex language and procedures and the divergences between the legal systems in different countries. In this light, the Hague Conference does monumental work in offering redress to parties in international situations where justice would otherwise have been elusive.



Receiving the award in Sydney

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On a basic level, the work that the Hague Conference does in family law demonstrates first hand the effect that cross-border disputes can have on a personal level. In a broader sense, my interest in cross-border dispute resolution for individuals and companies is motivated by a desire to ensure that justice is not something that ends at the border of States. Rather, I believe that we need to continue striving for a world where there are effective systems to manage conflicts, no matter where on the globe they arise.

This report is a summary of my own experiences and observations during my time as an intern. I hope that it can not only assist the Board of the Peter Nygh Hague Conference Internship to understand the valuable experience that this opportunity provides to graduates from Australia, but also that it might be of assistance to future candidates of the internship who wish to understand more about the opportunities available at the Hague Conference.

I have started with a brief summary of the Hague Conference and its work. I then go on to describe the variety of tasks in which I was involved, with the aim of providing future candidates with a better understanding of the internship and its benefits. Finally, I have chosen to focus on some of the other opportunities that are available in The Hague to show that an internship with the Hague Conference is not just about working but also about the opportunity to live in a city that is referred to as “the legal capital of the world”.

#### **Melissa Hanks**



The beautiful autumn canals in Utrecht; outside the Buitenhof on my bike in The Hague

## What is the Hague Conference on Private International Law?

The Hague Conference is the oldest inter-governmental organisation in The Hague. It was established in 1893 by just a small group of States and since then, it has grown to an organisation of 72 members (71 States and the European Union) and a continually expanding field of work. The objective of the Hague Conference is to work “for the progressive unification of the rules of private international law”, a task that it does with the help of a Permanent Bureau located in The Hague.



Outside the Peace Palace with Alex Kunzelmann and Kim Pham the 2009 and 2010 Nygh Interns

The Permanent Bureau, or the ‘PB’ as the staff call it, is located right near the Peace Palace, in the centre of the Hague. It is made up of around 30 permanent staff who work diligently on a number of different areas of private international law. The two broad areas of work are family law and legal co-operation.

The Hague Conference, with the help of the Permanent Bureau, develops and services multilateral conventions. There are currently 39 conventions and protocols that have been negotiated by the Hague Conference. They are known collectively as the “Hague

Conventions”. Beyond this function, the Permanent Bureau also fulfills a support function to assist States with the implementation and application of the Hague Conventions. For example, if a new State joins a treaty, the Permanent Bureau might assist by educating government officials and judges on how the treaty should be applied. In addition, the Hague Conference has also drafted non-binding instruments such as Guides to Good Practice, Implementation Handbooks and other material that assists States in implementing the conventions.

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The Conference room at the PB set up for the Technical Assistance Working Group

In order to discuss draft conventions and make decisions regarding the future projects of the Hague Conference, the members of the organisation meet once a year at the Council on General Affairs and Policy. In addition, there are additional meetings, called Special Commissions, held regularly in relation to specific instruments during which time States might discuss new instruments or issues relating to existing conventions. I was present for a Special Commission on the 1980 Child Abduction

Convention and 1996 Child Protection Convention. This was a four day meeting during which States Parties and other stakeholders discussed issues with applying the Convention, ideas for an additional instrument and the benefits of promoting alternative dispute resolution mechanisms. It was an invaluable opportunity to see how States interact as part of the organisation and the decision-making stage.

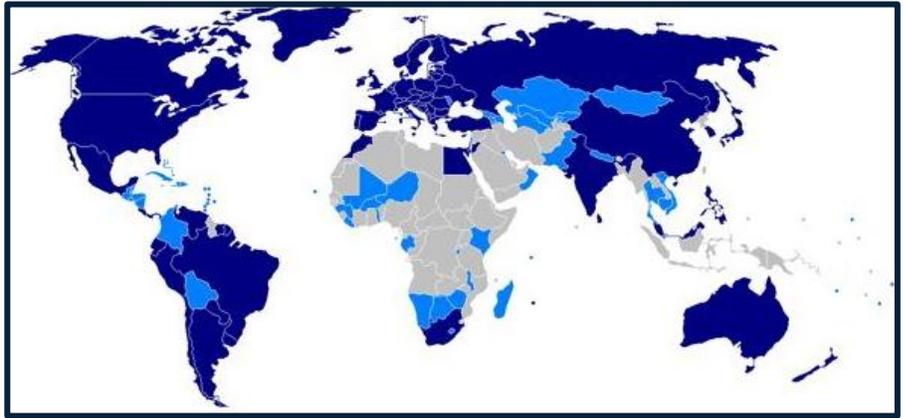
While it is ultimately the members of the Hague Conference who make decisions regarding the work program and projects of the organisation, the Permanent Bureau plays a vital role in facilitating these decisions. As a neutral body which supports the organisation, the Permanent Bureau is well-placed to carry out research and consultations, facilitate meetings of the States or subject-matter experts, and draft documents which bring important issues for consideration to the attention of States parties. As I mentioned previously, the Permanent Bureau also carries out support functions, however I was mostly involved in the research and preparation aspect and will therefore focus on that in this report.



The Peace Palace during the 2012 Special Commission on the 1980 and 1996 Child Protection Conventions

## What is private international law?

In Australia, private international law is usually referred to as “conflict of laws”. Generally, it is a set of rules that apply in matters involving individuals or companies where it is necessary to determine which State has jurisdiction and which State’s laws should apply. Such matters usually involve an international element. For example, sometimes the parties are in different countries when they enter into a contract, or two people might get married in one country and wish to obtain a divorce from another country. These sorts of issues involve the application of private international law rules to determine which State’s legal system should apply.



States connected to the Hague Conference (either as members or as parties to a Hague Convention)

In brief, private international law is divided into three areas: jurisdiction, applicable law, and recognition and enforcement. Unlike norms of public international law (which govern disputes between States), the rules of private international law are developed domestically (or regionally), and as such, each State has its own rules. As a consequence, it can be difficult for the individuals or companies involved in international matters to seek relief and to enforce a judgment that has been made in their favour. The Hague Conventions and the other work of the Hague Conference aim to reduce these barriers and provide a means for parties involved in private international law matters to access their legal rights.



A special morning tea during the Special Commission to celebrate Australia Day

## My role as an intern in general

The Permanent Bureau only has a small permanent staff and interns play an important role in assisting across all areas. I should mention briefly that internships in Europe are a very common means for professionals to obtain experience in fields that they are interested in. For many European law students, internships are a vital component without which they cannot graduate. Similarly, for anyone looking to obtain professional



Working at the Hague Conference Secretariat desk during a Special Commission with Maka, an intern from Azerbaijan

experience, either because they are starting a career, wishing to progress from their current position or looking for a new field of work, internships are a common way of going about this. I mention this firstly to establish context because I found that the idea of long internships to be more common than in Australia, but secondly, and more importantly, to demonstrate the variety of interns at the Permanent Bureau.



With two of the other interns, Francisco from Venezuela and Michelle from the United States

During my time at the PB, I worked with nine interns who came from diverse geographic regions including Canada, France, Japan, Venezuela, Azerbaijan and the United States. In addition, while some of the interns were recent law graduates, there was a huge diversity in terms of interests and experience. For example, I worked with an intern who teaches private international law at university, other interns with many years of legal experience, and some who were completing postgraduate law studies or returning home to do so.

This diversity demonstrates that the role of intern attracts a range of people who perform different functions. The Secretariat of the Permanent Bureau does a wonderful job in ensuring that all interns are able to work in an area in which their skills can be of the greatest use. Before going to the Hague Conference, I had a particular interest in commercial disputes and alternative dispute resolution. As such, the majority of the work that I did related to the litigation of cross-border civil and commercial disputes.

In general, I had a wonderful time as an intern. I found that interns were treated with the upmost respect and their work was trusted and valued. Further, although the positions are generally not paid, interns are given the same benefits as permanent staff including (very generous) holiday leave and invitations to regular meetings such as the legal team monthly meeting at which the legal officers discuss their past and upcoming work. Interns and their partners were also invited to staff functions such as the annual End of Year celebration, the Hague International Day and to the monthly “borrel” (a Dutch word for “after work drinks”). As a result, I felt very welcome as part of the Permanent Bureau.



From left: the foyer of the Peace Palace set up for drinks during the Special Commission; the 2011 Hague Conference End of Year Party had a bit of a musical twist!

## The projects I worked on

During my six months at the Hague Conference, I worked primarily in the civil and commercial law team which has responsibility for the conventions and work dealing with dispute resolution in civil and commercial matters. I also had the opportunity to work on a number of other projects that the Permanent Bureau was involved with.

### 1. Judgments Project

The majority of my time was spent on the 'Judgments Project'. This is an extremely topical project which relates to the potential development of a new instrument on the recognition and enforcement of foreign judgments in civil and commercial matters. Before the members of the Hague Conference make a decision regarding whether or not to continue work on this project, the Permanent Bureau was given a mandate in 2011 to research the background of the Judgments Project (which has been active on-and-off since 1992) and convene an expert group to discuss the merits of continuing the project.

I was closely involved with both of these tasks. My work involved carrying out research and preparing notes on the history of the project, assisting with preparations for the convening of an expert group, and helping with the drafting of a note for the experts. Much of my time was taken up with the preparation of a Preliminary Document which was provided to the States to allow them to come to an informed decision regarding the future of the project. In relation to this project, there were also a number of other tasks that I assisted with such as creating a new section on the organisation's website, updating the bibliography, answering email requests regarding the project and helping my supervisor prepare for presentations to be given in New Zealand and Australia.

### 2. Choice of Court Convention

In addition to the Judgments Project, I also spent considerable time working on the 2005 Choice of Court Agreements Convention. This is a fairly recent convention that arose out of previous negotiations on the judgments project when it was decided to limit the scope of the proposed instrument to something more achievable. Despite having considerable support, the Choice of Court Convention is not yet in force. It has been signed by the

United States and the European Union and acceded to by Mexico and will enter into force when the next instrument of ratification or accession is deposited. As such, the current work on this convention can be divided into two main areas: promotion and implementation support.

In order to promote more States to join the convention, I assisted the Secretariat with preparing a presentation to be given at the Fourth Asia Pacific Regional Conference in Manila, as well as presentations in Wellington and Brussels. This also involved carrying out research into the prevalence of choice of court clauses in international contracts. On the implementation side, I assisted with answering questions regarding the implementation of the convention and with updating the information on the website to make sure that it is up to date.

### **3. International Trade and Foreign Investment**

Related to the work on the Judgments Project and Choice of Court Convention, I also carried out substantial research on the link between the Hague Conventions and international trade and foreign investment. This nexus was discussed during a presentation given in New Zealand and then elaborated further in documents that were prepared for the Council on General Affairs and Policy.

I found this work particularly interesting because it allowed me to see the practical effect of the Hague Conventions on legal cooperation and to consider Australia's position against this backdrop. It became evident to me that in an era of increasing international trade and investment, the existence of reliable and effective mechanisms for resolving international disputes is a key way in which States can encourage such activity. Hong Kong, for example, has been able to capitalize on its strategic location for trade but also on having legal processes that are reliable and efficient and as such, make it a desirable trading conduit for other States. I am very grateful to have had the opportunity to work in this area because it allowed me to gain a new perspective from which I can evaluate my own country's legal system. As a trading nation, this research was particularly relevant to Australia and I found it particularly interesting to consider ways in which we can strengthen our legal processes to complement the international arbitration regime and make litigation a viable option in cross-border disputes.

#### 4. Special Commission January 2012

My time at the Permanent Bureau coincided with a Special Commission on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention. Over 200 delegates attended the four day meeting which was held in the Peace Palace. I was very lucky to have been in The Hague to witness the event, and I even had the opportunity of helping to set up and coordinate the delegates. I also had the honour of meeting the delegates from Australia which was particularly refreshing because the meetings coincided with Australia Day and the Attorney General's department was kind enough to put on morning tea to celebrate.

Although I did not work in the family law area, attending the Special Commission allowed me to understand more about the work that the Hague Conference does in this field and the positive impact that the Hague Conventions can have on families and children worldwide. For a country like Australia, with no shared borders and no close neighbours, the issues of parental child abduction and child protection are highly pertinent and it was interesting to see how these concerns fit in to the wider context of these conventions.

#### 5. Other work

I also had the opportunity to help with work across a range of other areas including:

- Assistance in drafting with a presentation on intellectual property rights and private international law, particularly in light of various regional developments in this area.
- Research into the nexus between private international law and state immunities.
- Helping prepare a presentation on private international law and environmental and industrial catastrophes, particularly where victims are unable to obtain compensation because their favourable judgments are unenforceable in the necessary State.
- Helping to develop promotional materials for the Hague Conference, both relating to the Hague Conventions and encouraging a wider knowledge of the organisation and its aims. I also volunteered at The Hague's annual International Day, a day where the international organisations and NGOs based in The Hague set up stalls to encourage greater awareness from locals and others on what kind of work they do.

## Around The Hague

As a city, I found The Hague to be a wonderful place to live. The city has around 500,000 inhabitants but the neighbouring towns are so close that it seems that they almost merge into one. For an Australian arriving in the Netherlands, the difference in population density was immediately noticeable but in many ways, a refreshing change because it means that most activities are in close proximity as well as any services you need. The Hague has a lovely city centre with lots to do, a long, sandy beach and is central to the rest of the Netherlands. The quick train trip to Schipol airport also makes weekend travel easy.

I found the Netherlands to be an easy place to move to and while there were some cultural habits that took adjusting to, in general I found people to be incredibly friendly and the culture to be inviting and familiar. The best advice I can give to future interns is to set up a bank account when you first arrive in The Hague. Unlike Australia, credit cards are rarely accepted and only Dutch debit cards will be taken. Having a bank account also allows you to purchase discount travel cards and makes it easier to book flights or anything online from local websites. The second necessity is a bicycle. This was the first thing I purchased when I arrived in The Hague and my time would not have been the same without it. The Permanent Bureau does have some bikes to loan out but if you're there for more than a few months, I would recommend buying a bike as soon as possible so that you can enjoy the Netherlands like the locals do.



Breaking out the ice skates in Leiden when the canals froze over



A canal in Delft at the end of summer

With a huge network of interns working at the various international organisations, social events were numerous and easy to come. The weekly 'intern drinks' take place at a different bar every week and are a wonderful way to meet people from different areas of work. I also found there to be a strong and supportive network of Australians in The Hague which made me feel like I was always at home. I was even invited to attend a wonderful concert of the Baroque Orchestra at the invitation of the Australian Embassy because the conductor of the group was Australian.

For anyone interested in international law (public or private), The Hague also offers wonderful opportunities including being the home of the ICC, ICTY, ICJ and the Hague Academy. I was lucky enough to attend the delivery of the judgment at the ICJ in the case of Greece v Macedonia and it was a truly wonderful experience to sit inside the Peace Palace in front of the full court and hear the judgment being read.



Celebrations during Carnival in Den Bosch



The main square of Bruges, Belgium



A beautiful sunset off Texel, an island off the north of the Netherlands

Beyond The Hague, I also had the chance to see some amazing places in both the Netherlands and around Europe. In the Netherlands I made it to Amsterdam, Texel, Gouda, Utrecht, Delft, Leiden and to Den Bosch for Carnival. The rail system is fast, cheap and generally reliable so travelling locally was easy and a great way to spend a Saturday afternoon. I also managed to get to some amazing places in Europe including spending a week in Croatia at the end of summer, seeing the World War I battlefields and Franco-Australian WWI museum in France, a weekend spent at the Christmas markets in Prague and an unforgettable ski trip in Austria.

## Why apply?

I have no hesitation in recommending the Peter Nygh Hague Conference internship to any law student or graduate with an interest in private international law and a desire to gain invaluable experience in a stimulating work environment. My experience in The Hague was truly incomparable and I feel incredibly privileged to have been given this opportunity to work with such an amazing team of people.

Although the internship is publicised as being for a period of three to six months, I would strongly urge prospective candidates to consider staying with the Permanent Bureau for as long as possible. As with any workplace, it takes some time to feel confident in the role and to settle in to life in The Hague. On my part, I am incredibly glad to have had the opportunity to stay in The Hague for six months and if I had the choice again, I would not hesitate to do this time over.

Applications for the Nygh Conference internship close each year on 30 January. Prospective candidates are notified shortly after that for an interview and the successful candidate is selected by 20 April each year. Detailed information can be found online at <http://www.aiia.asn.au/get-involved/nygh-internship>.



The delegates and Permanent Bureau staff who attended the Special Commission