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State of California

GEORGE DEUKMEJIAN  
Attorney General

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| OPINION                  | : | No. 81-1213           |
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| of                       | : | <u>MARCH 19, 1982</u> |
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| GEORGE DEUKMEJIAN        | : |                       |
| Attorney General         | : |                       |
|                          | : |                       |
| Anthony S. Da Vigo       | : |                       |
| Ronald M. Weiskopf       | : |                       |
| Deputy Attorneys General | : |                       |

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THE HONORABLE DENNIS A. BARLOW, COUNTY COUNSEL,  
COUNTY OF YUBA, has requested an opinion on the following question:

Does the Hague Convention Abolishing The Requirement Of Legalization  
For Foreign Public Documents supersede the provisions of section 1183 of the California  
Civil Code pertaining to the proof or acknowledgment of instruments made without the  
United States?

CONCLUSION

The Hague Convention Abolishing The Requirement Of Legalization For  
Foreign Public Documents supersedes the provisions of Civil Code section 1183 with  
respect to the proof or acknowledgment of "public documents" which have been executed  
in those countries which are signatories to the Convention.

## ANALYSIS

Under the provisions of Civil Code section 1180 et seq., the method for the proof or acknowledgment of an instrument depends on where that formality occurs. The proof or acknowledgment of an instrument *in California* may be made any place within the state before a justice or clerk of the Supreme Court or any court of appeal, before a judge of a superior court (Civ. Code, § 1180) or before a notary public (Civ. Code, § 1181). It may also be made before certain specified county and city officers within the county or city and county in which they were elected or appointed. (Civ. Code, § 1181.) The proof or acknowledgment of an instrument made outside of California *but within the United States* may be made before and within the jurisdiction of a justice, judge or clerk of any federal or state court of record, a commissioner appointed by the Governor or Secretary of State for that purpose, a notary public, or any other officer of the state authorized by its laws to take such proof or acknowledgment. (Civ. Code, § 1182.) For proving or acknowledging instruments *outside the United States*, Civil Code section 1183, the subject of this opinion, provides as follows:

"The proof or acknowledgment of an instrument may be made without the United States, before any of the following:

"(1) A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.

"(2) A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made.

"(3) A judge of a court of record of the country where the proof or acknowledgment is made.

"(4) Commissioners appointed by the Governor or Secretary of State for that purpose.

"(5) A notary public.

"If the proof or acknowledgment is made before a notary public, the signature of the notary public must be proved or acknowledged before a minister, consul, vice consul or consular agent of the United States or a judge of a court of record of the country where the proof or acknowledgment is made."

Under California law, the requisites for an acknowledgment of an instrument are the personal appearance of the maker, his acknowledgment that he signed it, and the officer's personal knowledge that the maker is the person he purports to be. (Civ. Code, § 1185; *Transamerica Title Ins. Co. v. Green* (1970) 11 Cal.App.3d 693, 700.) Its function is to establish the identity of the person making the acknowledgment and the genuineness of the signature attached to the instrument. (*Ryan v. Bank of Italy* (1930) 106 Cal.App. 690, 693; *Clements v. Snider* (1969) 409 F.2d 549, 550.) The purpose of an acknowledgment of an instrument (as a deed) is evidentiary and permits the instrument to be recorded or used as competent evidence without further proof. (*Gordon v. San Diego* (1895) 108 Cal. 264, 267; *Lillard v. Walsh* (1959) 172 Cal.App.2d 674, 678.)

In 1981 the United States acceded to The Hague Convention Abolishing The Requirement Of Legalization For Foreign Public Documents (hereinafter, "the Convention")<sup>1</sup> which addresses the same basic matter of the formalities needed to prove or acknowledge the genuineness of certain documents. The Convention applies *only* to "public documents [*cf. 'actes publics'*] which have been executed in the territory of one contracting [country] and which have to be produced *in the territory* of another contracting [country]." (Conv., art. 1.) Four categories of documents are covered: (a) documents emanating from a judicial or other tribunal including documents from a public prosecutor, a clerk of a court or process server; (b) "administrative documents"<sup>2</sup>; (c) "*notarial acts*"; and (d) *official certificates* which are placed on documents signed by persons in their private capacity such as official certificates recording the registration of a document and notarial authentications of signatures. (Conv., art. 1; cf. *Letter of Submittal*, Dept. of State, April 8, 1976, printed in Sen. Ex. Rept. No. 96-17, 96th Cong. 1st Sess., at p. VI; see also Amram, Philip W., "Toward Easier Legalization of Foreign Public Documents," vol. 60 Am.Bar.Assn.J. (Mar. 1974), p. 310, at pp. 311-312.) With respect to those types of

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<sup>1</sup> The multilateral Convention adopted at the Ninth Session of The Hague Conference on Private International Law on October 26, 1960, was opened for signature on October 5, 1961, and is presently in force in 28 nations. The Senate of the United States of America by its resolution of November 28, 1979, gave its advice and consent to the accession of the United States to the Convention. On December 27, 1979, the President of the United States approved accession. In accordance with the provisions of the Convention, the United States deposited its instrument of accession with the Netherlands on December 24, 1980. Upon the proclamation of the President on September 21, 1981, and publication by the Secretary of State in the Treaties and Other International Acts Series (T.I.A.S. 10072) in accordance with the provisions of title 1, United States Code, section 113, the Convention entered into force with respect to the United States on October 15, 1981. The text of the Convention together with its annex is appended hereto as appendix A. A list of contracting countries is appended as appendix B.

<sup>2</sup> Administrative documents dealing directly with commercial or customs operations, however, as well as documents executed by diplomatic or consular agents, are specifically excluded from application of the Convention. (Conv., art. 1.)

documents, the Convention creates a standardized form of a certificate of endorsement, the *apostille*<sup>3</sup> (*Conv.*, art. 4 & annex) and provides that "[t]he only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted, and, where appropriate, the identity of the seal or stamp which it bears, is the addition [<sup>4</sup>] of the [apostille] issued by the competent authority [<sup>5</sup>] of the [country] from which the document emanates." (*Conv.*, art. 3.) In addition, the Convention specifically abolishes the participation of domestic diplomatic or consular personnel in the document authentication process, article 2 providing as follows:

"Each contracting [country] shall exempt from legalization documents to which the present Convention applies and which have to be produced in its territory. For the purposes of the present Convention, legalization means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears."<sup>6</sup>

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<sup>3</sup> Cf. French "apostiller," to annotate, to endorse.

<sup>4</sup> The *apostille*, the exemplar for which is annexed to the Convention (see appendix, *post*), may be placed on the document itself as with a stamp or on an *allonge*, a separate piece of paper attached to the document. (*Conv.*, art. 4; cf. Fr. "allonger," to lengthen, to extend.) While an *apostille* may be drawn in the official language of the issuing authority, and while its standard terms may also be in a second language--presumably the language where the document being authenticated is to be used (*Amram*, 60 Am.Bar.Assn.J., *supra*, at p. 312)—its title, "Apostille (Convention de la Haye du 5 octobre 1961)," must be in French (*Conv.*, art. 4), the prevailing language of the Convention's text. (*Id.*, subscription.) The provision for a uniform format and French title was intended to facilitate identification of the *apostille*. (*Comment*, "The United States and The Hague Convention Abolishing The Requirement Of Legalization For Foreign Public Documents," 11 Harv.Internat.L.J. 476, 479 (1970).)

<sup>5</sup> Pursuant to article 6, each contracting country undertakes to designate by reference to their official function the authorities who are competent to issue *apostilles*. The designation is flexible and accommodates national peculiarities such as a federal system. (See *Amram*, 60 Am.Bar.Assn.J., *supra*, at p. 314; *Comment*, 11 Harv.Internat.L.J., *supra*, at pp. 486-489 & 489, fn. 74.) The California Secretary of State or any assistant or deputy secretary of state have been designated competent to issue *apostilles* in California. Also designated in this state are the clerks and deputy clerks for the United States Court of Appeals for the Ninth Circuit, and for the United States District Courts.

<sup>6</sup> In a broader sense, legalization "includes all varieties of 'the process by which the signature or seal on a document is deemed to have been authenticated so that the document may thereafter be received without further proof so far as concerns signing and sealing.' The term has been used to refer to many different practices whose scope and probative force vary from country to country

The purpose for these changes is explained by the State Department in its Letter of Submittal of the Convention to the President:

"The purpose of the Convention is to abolish the requirement of diplomatic and consular legalisation for foreign public documents. Such legalisation or authentication of documents is frequently the last step in a time-consuming and burdensome process known as the chain-certificate method of document certification. Under this method when a document is to be used in a foreign legal proceeding a chain of certifications is ordinarily required beginning with the issuer of the document and leading ultimately to a consul of the recipient country sitting in the country of origin. The first certification is of the authenticity of the signature or seal of the issuer and each certifier thereafter merely certifies the signature, seal or stamp of the certification immediately preceding his. As an example, the signature chain for a power of attorney executed in Iowa for use in the Netherlands might run as follows: (1) grantor; (2) public notary; (3) county clerk; (4) Secretary of State of the State of Iowa; (5) Secretary of State of the United States; (6) Consul of the Netherlands sitting in Chicago. Sometimes a recipient country additionally requires that the signature of its consul be certified in the recipient country by its own department of foreign relations. The purpose of the chain of certificates is to provide a foreign recipient of a document evidence of authenticity upon which he may rely without undertaking the difficult task of personally certifying the document directly with the original issuer.

"The Convention establishes a simplified system for attaining the same objective. The key elements are (a) substitution of a standard certificate bearing one signature for the chain-certificate and (b) abolition of diplomatic or consular authentication of that certificate. The result is elimination of the costs, delays, and frustrations of the present system and reduction of the administrative burdens on judges, clerks of courts, diplomatic and consular officers, and other officials of certifying each other's signatures.

"Among the twenty countries listed as parties above are many with which we have substantial private law relations. At a time when the volume and importance of litigation with international aspects is growing, it seems desirable to secure for American documents and American litigants the benefits of the streamlined procedures of the Convention. Adoption of the

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and often within the same country." (*Comment*, 11 Harv.Internat.L.J., *supra*, at p. 477; fns. omitted.)

Convention would at the same time ease the burdens and expense on lawyers both here and abroad of the present system and free consuls to provide more urgently needed services." [*Letter of Submittal*, Department of State (April 8, 1976).]

The Convention thus addresses the same question of the formalities needed to prove the genuineness of a signature on and/or establish the capacity of the signer of a foreign public document, as does Civil Code section 1183.<sup>7</sup> Needless to say, since *it* makes the single-signature *apostille* the *only* formality or requirement<sup>8</sup> necessary toward that end for foreign documents emanating from signatory countries to be produced *in the territory* of the United States, and since it *abolishes* participation of American diplomatic or consular personnel in the acknowledgment process (whether singularly or as the last link in a chain-certification), it clearly conflicts with the provisions of Civil Code section 1183 relating to the proof or acknowledgment of such documents as instruments. The question thus arises as to whether the Convention supersedes the Civil Code provisions. We conclude that where the proof or acknowledgment of an instrument involves authenticating the capacity of the signer or the genuineness of the signature or seal on a document that is a "public document"<sup>9</sup> from a country that is signatory to the Convention, the provisions of the Convention supersede those of Civil Code section 1183.

Article VI, clause 2 of the United States Constitution provides:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and *all treaties made*, or which shall be made, *under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby*, anything in the Constitution or laws of any State to the contrary notwithstanding." (Emphasis added.)

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<sup>7</sup> To be clear, the question of the probative force of a document is *not* governed by the Convention and continues to be determined by California law. (See *Comment*, 11 Harv. Internat.L.J., *supra*, at p. 487.)

<sup>8</sup> *Aposition*, or authentication of a document by an *apostille*, was intended to be the most stringent or *maximum* formality required for authentication. Article 3 provides that even it may be simplified or abolished (waived) by unilateral, bilateral or multilateral action. (See also, *Amram*, 60 Am.Bar.Assn.J., *supra*, at p. 311; *Comment*, 11 Harv.Internat.L.J., *supra*, at p. 480.)

<sup>9</sup> The Convention applies, by the terms of article 1, subdivision (d), to official certifications upon private documents, such as a certificate of registration or an official authentication of a signature. This does not authenticate the private document itself, but only its public aspect.

(And see Cal. Const., art. III, § 1; 63 Ops.Cal.Atty.Gen. 647, 654 (1980).) There can be no doubt that the Convention is a treaty made "under the authority of the United States."<sup>10</sup> But that does not conclude the matter. The federal treaty power is not unqualified, but rather is subject to constitutional constraints. (*Reid v. Covert* (1957) 354 U.S. 1, 16-17; see also 1 Oppenheim, *International Law* (Lauterpacht, 8th ed. 1955) at pp. 41-42, & fn. 1.) As was explained in *Reid v. Covert*, *supra*, 354 U.S. at pages 17-18:

"There is nothing new or unique about what we say here. This Court has regularly and uniformly recognized the supremacy of the Constitution over a treaty. For example, in *Geofroy v. Riggs*, 133 U.S. 258, 267, it declared:

"The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those arising from the nature of the government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent."<sup>11</sup>

(Cf. *Note*, "Executive Agreements: Effect When in Conflict with Constitutional Rights," 43 Cal.L.Rev. 525 (1955).) We must therefore examine whether the Convention's intrusion on California's method for the proof and acknowledgment of foreign instruments offends the United States Constitution. We perceive no conflicts with any express provision of the Constitution. Nor does the Tenth Amendment, reserving to the states respectively, or to the people, those powers not delegated to the United States by the Constitution nor prohibited by it to the states, constitute a barrier. (*Reid v. Covert*, *supra*, 354 U.S. at p. 18.) As stated in *Missouri v. Holland* (1920) 252 U.S. 416, 434-435:

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<sup>10</sup> Article II, section 2, clause 2 of the federal Constitution provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur . . . ." A convention enjoys the status of a treaty. (*United States v. Pink* (1942) 315 U.S. 203, 230; *Dr. Ing H.C.F. Porsche A.G. v. Superior Court* (1981) 123 Cal.App.3d 755, 758, fn. 1.)

<sup>11</sup> The Court further noted that the reason treaties were not limited to those made in "pursuance" of the Constitution, as in the case of the laws of the United States (see art. VI, cl. 2, *supra*), was so that agreements made by the United States under the Articles of Confederation, including the important peace treaties which concluded the Revolutionary War, would remain in effect. (*Id.*, at 16-17.)

"As most of the laws of the United States are carried out within the States and as many of them deal with matters which in the silence of such laws the State might regulate, such general grounds are not enough to support Missouri's claim. Valid treaties of course 'are as binding within the territorial limits of the States as they are elsewhere throughout the dominion of the United States.' *Baldwin v. Franks*, 120 U.S. 678, 683. *No doubt the great body of private relations usually fall within the control of the State, but a treaty may override its power.* We do not have to invoke the later developments of constitutional law for this proposition; it was recognized as early as *Hopkirk v. Bell*, 3 Cranch, 454, with regard to statutes of limitation, and even earlier, as to confiscation, in *Ware v. Hylton*, 3 Dall. 199. It was assumed by Chief Justice Marshall with regard to the escheat of land to the State in *Chirac v. Chirac*, 2 Wheat. 259, 275. *Hauenstein v. Lynham*, 100 U.S. 483. *Geofroy v. Riggs*, 133 U.S. 258. *Blythe v. Hinckley*, 180 U.S. 333, 340. So as to a limited jurisdiction of foreign consuls within a State. *Wildenhus's Case*, 120 U.S. 1. See *Ross v. McIntyre*, 140 U.S. 453. Further illustration seems unnecessary, and it only remains to consider the application of established rules to the present case." (Emphasis added.)

California's concern, expressed in Civil Code section 1183, is to ensure the genuineness of instruments. The Convention addresses the same concern but eliminates the requirement for an extended succession of chain-certifications. Through the *apostille* it provides an easier means of authentication of foreign documents, and facilitates production of California documents abroad. The State of California could not have achieved that objective by itself, for it is forbidden by the Constitution to "enter into any treaty." (U.S. Const., art. 1, § 10; cf. *Hauenstein v. Lynham* (1880) 100 U.S. 483, 490.) Further, California could not enjoin a foreign official (such as the judge contemplated in Civ. Code, § 1183(a)) to perform duties that his government has agreed he should not perform. (Cf. *Volkswagenwerk Aktiengesellschaft v. Superior Court* (1981) 123 Cal.App.3d 840, 855-859.) By the same token, California cannot have American diplomatic and consular personnel (cf. Civ. Code, § 1183 (1, 2, 5)) participate in the process of certifying public documents emanating from signatories to the Convention when our federal government has agreed to the abolition of their participation therein.

Insofar as Civil Code section 1183 is viewed as reflecting a state concern with respect to real property (as with establishing requisites to recording of deeds) we observe the following: While it is true that matters involving real property and estates have traditionally been considered a state concern, such concerns have been held to be subordinate to the paramount power of the federal government to affect by treaty. (See, e.g., *Clark v. Allen* (1947) 331 U.S. 503 (succession); *Nielson v. Johnson* (1929) 279 U.S. 47 (inheritance tax); *Hauenstein v. Lynholm*, *supra*, 100 U.S. 483 (inheritance); *Blythe v.*



*Hinckley* (1900) 180 U.S. 340, 341; *Geofroy v. Riggs* (1890) 133 U.S. 258, 267-270; *Chirac v. Chirac* (1817) 2 Wheat. 259, 274-278 [15 U.S.]; 4 L.Ed. 234, 238.)

It is therefore our view that the Convention properly does affect the matters covered by Civil Code section 1183. As it adjusts matters which are "properly the subject of negotiation with a foreign country" (*Geofroy v. Riggs*, *supra*, 133 U.S. 258, 267; *Hauenstein v. Lynham*, *supra*, 100 U.S. 483, 490; cf. *Asakura v. Seattle* (1924) 265 U.S. 332, 341) and does not violate any express provision of the federal Constitution, it has been properly acceded to by the United States and supersedes any inconsistent provision of state law even though the state is otherwise clearly authorized to act in the premises. (*United States v. Pink*, *supra*, 315 U.S. at 230-231; *United States v. Belmont* (1937) 301 U.S. 324, 331-332.) The Convention is expressly made applicable to "public documents" which have been executed in the territory of one contracting state and which have to be produced *in the territory* of another contracting state, and is therefore as binding within the boundaries of the State of California as elsewhere throughout the national dominion. (Cf. *Missouri v. Holland*, *supra*, 252 U.S. 416; cf. *Asakura v. Seattle*, *supra*; *Comment*, 11 Harv. Internat.L.J., *supra*, at p. 482, fn. 44.) The Convention is self-executing insofar as it establishes the maximum requirements (formalities) needed for the acknowledgement of foreign public documents to be produced in California, since it neither contemplates nor requires additional legislative action. (*United States v. Percheman* (1833) 7 Pet. (U.S.) 51, 88-89 [8 L.Ed. 604]; cf. *Nielsen v. Johnson*, *supra*, 279 U.S. at 50; *Sei Fujii v. California* (1952) 38 Cal.2d 718, 721.) As to the documents therein designated, then, it supersedes, with respect to those nations which are signatories<sup>12</sup>, the provisions of Civil Code section 1183 pertaining to the proof or acknowledgment of instruments made without the United States.

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<sup>12</sup> It is acknowledged that the state will have to maintain two sets of rules on authentication of documents: that of the *apostille* in respect to public documents emanating from parties to the Convention, and the current provisions of Civil Code section 1183 with respect to documents from other nations. This is no different from the burden on federal courts. (See Fed. Rules Civ. Proc., rule 44, 28 U.S.C.A.) Further, as has been observed, "In view of the simplicity of the *apostille* this would seem to be no significant burden." (*Comment*, 11 Harv. Internat.L.J., *supra*, at p. 487.)

## APPENDIX A

### CONVENTION ABOLISHING THE REQUIREMENT OF LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS

The States signatory to the present Convention,

Desiring to abolish the requirement of diplomatic or consular legalisation for foreign public documents,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

#### ARTICLE I

The present Convention shall apply to public documents which have been executed in the territory of one contracting State and which have to be produced in the territory of another contracting State.

For the purposes of the present Convention, the following are deemed to be public documents:

(a) Documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process server ("huissier de justice");

(b) Administrative documents;

(c) Notarial acts;

(d) Official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

However, the present Convention shall not apply:

(a) To documents executed by diplomatic or consular agents;

(b) To administrative documents dealing directly with commercial or customs operations.

## ARTICLE 2

Each contracting State shall exempt from legalisation documents to which the present Convention applies and which have to be produced in its territory. For the purposes of the present Convention, legalisation means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.

## ARTICLE 3

The only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.

However, the formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more contracting States have abolished or simplified it, or exempt the document itself from legalisation.

## ARTICLE 4

The certificate referred to in the first paragraph of Article 3 shall be placed on the document itself or on an "allonge"; it shall be in the form of the model annexed to the present Convention.

It may, however, be drawn up in the official language of the authority which issues it. The standard terms appearing therein may be in a second language also. The title "Apostille (Convention de La Haye du 5 octobre 1961) "shall be in the French language."

## ARTICLE 5

The certificate shall be issued at the request of the person who has signed the document or of any bearer.

When properly filled in, it will certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears.

The signature, seal and stamp on the certificate are exempt from all certification.

## ARTICLE 6

Each contracting State shall designate by reference to their official function, the authorities who are competent to issue the certificate referred to in the first paragraph of Article 3.

It shall give notice of such designation to the Ministry of Foreign Affairs of the Netherlands at the time it deposits its instrument of ratification or of accession or its declaration of extension. It shall also give notice of any change in the designated authorities.

## ARTICLE 7

Each of the authorities designated in accordance with Article 6 shall keep a register or card index in which it shall record the certificates issued, specifying:

- (a) The number and date of the certificate,
- (b) The name of the person signing the public documents and the capacity in which he has acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp.

At the request of any interested person, the authority which has issued the certificate shall verify whether the particulars in the certificate correspond with those in the register or card index.

## ARTICLE 8

When a treaty, convention or agreement between two or more contracting States contains provisions which subject the certification of a signature, seal or stamp to certain formalities, the present Convention will only override such provisions if those formalities are more rigorous than the formality referred to in Articles 3 and 4.

## ARTICLE 9

Each contracting State shall take the necessary steps to prevent the performance of legalisations by its diplomatic or consular agents in cases where the present Convention provides for exemption.

## ARTICLE 10

The present Convention shall be open for signature by the States represented at the Ninth session of the Hague Conference on Private International Law and Iceland, Ireland, Liechtenstein and Turkey.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

## ARTICLE 11

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 10.

The convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

## ARTICLE 12

Any State not referred to in Article 10 may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 11. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Such accession shall have effect only as regards the relations between the acceding State and those contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph (d) of Article 15. Any such objection shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force as between the acceding State and the States which have raised no objection to its accession on the sixtieth day after the expiry of the period of six months mentioned in the preceding paragraph.

## ARTICLE 13

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extension shall be notified to the Ministry of Foreign Affairs of the Netherlands.

When the declaration of extension is made by a State which has signed and ratified, the Convention shall enter into force for the territories concerned in accordance with Article 11. When the declaration of extension is made by a State which has acceded, the Convention shall enter into force for the territories concerned in accordance with Article 12.

## ARTICLE 14

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 11, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, the Convention shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation will only have effect as regards the State which has notified it. The Convention shall remain in force for the other contracting States.

## ARTICLE 15

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 10, and to the States which have acceded in accordance with Article 12, of the following:

- (a) The notifications referred to in the second paragraph of Article 6;
- (b) The signatures and ratifications referred to in Article 10;

(c) The date on which the present Convention enters into force in accordance with the first paragraph of Article 11;

(d) The accessions and objections referred to in Article 12 and the date on which such accessions take effect;

(e) The extensions referred to in Article 13 and the date on which they take effect;

(f) The denunciations referred to in the third paragraph of Article 14.

In witness whereof the undersigned, being duly authorized thereto, have signed the present Convention.

Done at The Hague the 5th October 1961, in French and in English, the French text prevailing in case of divergence between the two texts, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Ninth session of the Hague Conference on Private International Law and also to Iceland, Ireland, Liechtenstein and Turkey.

## ANNEX TO THE CONVENTION

### Model of certificate

The certificate will be in the form<sup>13</sup> of a square with sides at least 9 centimetres long.

|   |                      |
|---|----------------------|
| <b>APOSTILLE</b><br>(Convention de la Haye du 5 octobre 1961) |                      |
| 1. Country: _____   |                      |
| This public document  |                      |
| 2. has been signed by _____                                   |                      |
| 3. acting in the capacity of _____                            |                      |
| 4. bears the seal/stamp of _____                              |                      |
| _____   |                      |
| Certified   |                      |
| 5. at _____   | 6. the _____         |
| _____   |                      |
| 7. by _____   |                      |
| 8. No. _____  |                      |
| 9. Seal/stamp: _____  | 10. Signature: _____ |
| _____   |                      |

## APPENDIX B

### CONTRACTING COUNTRIES

STATUS: SEPTEMBER 15, 1981

Contracting State

Territories Covered

Austria  
Bahamas  
Belgium

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<sup>13</sup> The apostille consists of the following items: 1) name of country from which the document emanates; 2) name of person signing the document; 3) the capacity in which he has acted; 4) in the case of unsigned documents, the name of the authority which has affixed the seal or stamp; 5) place of certification; 6) date of certification; 7) the authority issuing certificate; 8) number of certificate; 9) seal or stamp of authority issuing certificate; 10) signature of authority issuing certificate. (Conv., art. 7.)



| Contracting State            | Territories Covered  |
|------------------------------|--|
| Botswana                     |  |
| Cyprus                       |  |
| Fiji                         |  |
| France                       | <p>Departments in Europe and<br/>Overseas Departments:<br/>French Guiana<br/>Guadeloupe<br/>Martinique<br/>Reunion<br/>Overseas Territories:<br/>Affars and the Issas<br/>Anglo-French Condominium<br/>of the New Hebrides (Vanuatu)*<br/>Comoro Islands*<br/>French Polynesia<br/>New Caledonia<br/>St. Pierre and Miguelon<br/>Wallis and Futuna</p> |
| Germany, Federal Republic of |  |
| Hungary                      |  |
| Israel                       |  |
| Italy                        |  |
| Japan                        |  |
| Lesotho                      |  |
| Liechtenstein                |  |
| Luxembourg                   |  |
| Malawi                       |  |
| Malta                        |  |
| Mauritius                    |  |
| Netherlands                  |  |
| Portugal                     | <p>Land Berlin (Western Sectors of Berlin)</p> <p>the Kingkom in Europe<br/>Netherlands Antilles<br/>Suriname**<br/>Angola*<br/>Mozambique*<br/>the other overseas<br/>departments</p>   |

Contracting StateTerritories Covered

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Seychelles

Spain

Suriname

Swaziland

Switzerland

Tonga

United Kingdom of Great Britain  
and Northern Ireland

Antigua

Bahama Islands\*\*

the Bailiwick of Guernsey

Barbados\*

Basutoland (Lesotho)\*\*

Bechuanaland Protectorate (Botswana)\*\*

Bermuda

British Antarctic Territory\*\*\*

British Guiana (Guyana)\*

British Solomon Islands

Protectorate (Solomon Islands)\*

Brunei

Cayman Islands

Dominica\*

Falkland Islands

Fiji\*\*

Gibraltar

Gilbert and Ellice Islands (Kiribati)\*

Grenada\*

Hong Kong

the Isle of Man

Jersey

Mauritius\*\*

Montserrat

New Hebrides (Vanuatu)\*

St. Helena

Saint Christopher, Nevis  
and Anguilla

Saint Lucia\*

Saint Vincent\*

Seychelles\*\*

Southern Rhodesia (Zimbabwe)\*

| Contracting State | Territories Covered      |
|-------------------|--------------------------|
|                   | Swaziland**              |
|                   | Tonga**                  |
|                   | Turks and Caicos Islands |
|                   | Virgin Islands           |
| Yugoslavia        |                          |

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\* Now independent.

\*\* Now independent and party to the Convention.

\*\*\* The United States does not recognize claims in Antarctica.