THE 2005 HAGUE CONVENTION ON
CHOICE OF COURT AGREEMENTS

The Hague Convention on Choice of Court Agreements was concluded on June 30, 2005. It makes choice of court agreements both more likely to be honored and more likely to lead to judgments that will be recognized and enforced around the globe. The Convention will serve as an indispensable source both for transactions lawyers drafting the transnational commercial contracts of the future and for litigators involved in the resolution of disputes between parties to important transnational commercial transactions.

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The 2005 Hague Convention on Choice of Court Agreements

Commentary and Documents

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To the memory of
Peter Nygh, Alan Philip, and Arthur Taylor von Mehren

whose knowledge and grace
contributed so much to the completion of the
Hague Convention on Choice of Court Agreements
and so much more to all of us who benefitted from
those contributions both personally and professionally.
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Preface

The Hague Convention on Choice of Court Agreements was completed at the Diplomatic Conference of the Hague Conference on Private International Law on June 30, 2005. While the Convention has been available for signature and ratification by Member States of the Hague Conference and for accession by other States from that date forward, it was not practical for any state to move forward in regard to becoming a Contracting State until the completion of the official Explanatory Report. With the completion of the Explanatory Report in May of 2007, the Convention is ripe for consideration by all States, and Mexico has become the first state to ratify.

We hope this book will provide a balanced and substantive look at the process that created the Convention and the resulting Convention text. We also hope the exposition on the pages that follow will prove useful to those wanting a better understanding of the Convention, as well as to those who may be involved in decisions about national positions in regard to the status of the Convention. Our participation as members of the United States Delegation that negotiated the Convention has informed our discussion.1 This book is not, however, intended as a participant's memoir. We have endeavored to present as complete and factual a picture of the text and its context as we are able.


We express our appreciation to those who have aided in the creation of this work. Special thanks are due to Andrew Lukashunas, Alexander Braden, Tabitha Fish, and Sarah Vuong for their valuable research assistance and editorial comments, and to LuAnn Driscoll, Phyllis Gentille, Karen Knochel, Darleen Mocello, and Barbara Salopek for helping make the product better. Thanks also to Gina Clark for keeping at least one of the authors sane by making sure administrative details didn’t get in the way.

1 Of course, the views throughout this book are the personal views of the authors and not the views of the United States Government.