

ALA American Library Association

2000-2001 CD #20.8

RESOLUTION REGARDING THE DRAFT HAGUE CONVENTION ON JURISDICTION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL CASES

- WHEREAS, The Draft Hague Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Cases would create jurisdictional rules governing international lawsuits and provide for recognition and enforcement of judgments by the courts of Member States; and
- WHEREAS, Disputes over copyright and other intellectual property are adjudicated as private tort actions and would be governed by the draft Convention;
- WHEREAS, Disputes over contracts and license agreements would be governed by the draft Convention;
- WHEREAS, The Internet is a global medium connecting information providers and users without regard to national boundaries;
- WHEREAS, In many cases, foreign national copyright laws do not contain or protect as strongly the constitutionally mandated balances such as fair use and first sale in U.S. copyright law or the equivalent protection of the U.S. First Amendment;
- WHEREAS, The Hague agreement as presently drafted threatens to expose libraries, archives and educational institutions (as well as other public service organizations such as museums) to suits charging infringement under more stringent foreign copyright laws;
- WHEREAS, The Hague agreement as presently drafted threatens to require non-profit institutions, including libraries, archives and educational institutions, to travel to remote locations to defend against lawsuits through the enforcement of choice of forum clauses in non-negotiated contracts;
- WHEREAS, Libraries worldwide are similarly threatened;
- WHEREAS, The U.S. Department of State, the U.S. Department of Commerce, the Federal Trade Commission, and the U.S. Copyright Office have been receptive to hearing library concerns in their public meetings on the draft Convention;

WHEREAS, Negotiations on the draft Convention language take place in closed diplomatic sessions without the opportunity for substantive comment and advice from those who are not part of the formal delegation; now, therefore, be it

RESOLVED, That the American Library Association expresses appreciation to the U.S. Department of State, the U.S. Department of Commerce, the Federal Trade Commission, and the U.S. Copyright Office for their efforts to date to seek and consider library input to their deliberations; and be it further

RESOLVED, That the American Library Association urges the U.S. Department of State to include a representative from the library and educational community on the official U.S. delegation to the Hague Conference, in order that the public interest perspective be fully represented in their deliberations; and be it further

RESOLVED, That the American Library Association urges the negotiators to be mindful of the vast public, non-commercial resources and services that are provided on the Internet and to refrain from establishing jurisdictional rules intended to regularize electronic commerce that have unintended negative consequences for the public interest; and be it further

RESOLVED, That the American Library Association urges the negotiators at the Hague Conference to remove intellectual property cases, including copyright cases, from the scope of the draft Convention or to adopt such language as necessary to assure that non-profit libraries, archives, educational institutions and other public service institutions in the United States continue to benefit from the Constitutionally based protections they currently enjoy.

Sponsored by: Committee on Legislation

Endorsed in principle by:

ACRL Copyright Committee

Government Documents Roundtable

Intellectual Freedom Committee

International Relations Committee

LAMA

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OITP Copyright Advisory Committee