

**No. 24388**

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**MULTILATERAL**

**Inter-American Convention on conflicts of laws concerning checks. Concluded at Montevideo on 8 May 1979**

*Authentic texts: Spanish, English, Portuguese and French.*

*Registered by the Organization of American States on 23 October 1986.*

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**MULTILATÉRAL**

**Convention interaméricaine sur les conflits de lois en matière de chèques. Conclue à Montevideo le 8 mai 1979**

*Textes authentiques : espagnol, anglais, portugais et français.*

*Enregistrée par l'Organisation des États américains le 23 octobre 1986.*

## INTER-AMERICAN CONVENTION<sup>1</sup> ON CONFLICTS OF LAWS CONCERNING CHECKS

The Governments of the Member States of the Organization of American States,

Considering that it is necessary to adopt in the Inter-American System rules for solving conflicts of laws concerning checks, have agreed as follows:

*Article 1.* Capacity to enter into an obligation by means of a check shall be governed by the law of the place in which the obligation was contracted.

However, if such obligation was contracted by a person who was incompetent according to that law, such incompetency shall not be valid in the territory of any other State Party to this Convention if the obligation is valid under the law of that State.

*Article 2.* The forms of legal acts such as the drawing, endorsement, guaranty, protest and the like that may appear on a check shall be governed by the law of the place in which each one of those acts is performed.

*Article 3.* All obligations arising from a check shall be governed by the law of the place in which they were contracted.

*Article 4.* Should one or more obligations arising from a check be invalid under the law applicable according to the preceding articles, this invalidity shall not affect such other obligations as are valid under the law of the place in which they were contracted.

*Article 5.* For the purposes of this Convention, should a check not specify the place where the respective obligation was entered into or the legal act embodied in the document was performed, it shall be understood that the obligation was entered into or the act performed in the place where the check is payable and, should that place not be specified, the place where it was drawn.

<sup>1</sup> Came into force on 14 June 1980, i.e., the thirtieth day following the date of deposit with the General Secretariat of the Organization of American States of the second instrument of ratification, in accordance with article 14:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Peru .....	15 May 1980
Uruguay* .....	15 May 1980

\* For the text of the declaration made upon ratification, see p. 22 of this volume.

Subsequently, the Convention came into force for the following States on the thirtieth day following the date of deposit with the General Secretariat of the Organization of American States of their instruments of ratification or accession, in accordance with article 14:

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
Ecuador .....	18 May 1982
(With effect from 17 June 1982.)	
Paraguay .....	16 August 1985
(With effect from 15 September 1985.)	

*Article 6.* The procedures and time limits for the protest of a check or other equivalent act for the preservation of rights against the endorsers, the drawer, or other obligated parties shall be governed by the law of the place where the protest or other equivalent act is or should be performed.

*Article 7.* The law of the place in which a check is to be paid shall determine:

- a. Its nature;
- b. Its form and the effects thereof;
- c. The time of presentation;
- d. The persons against whom the check may be drawn;
- e. Whether it may be drawn for deposit only, crossed, or be certified or confirmed, and the effects of these acts;
- f. The rights of the holder in regard to the provision of funds and the nature of such rights;
- g. Whether the holder may demand, or is obliged to accept, partial payment;
- h. The rights of the drawer to cancel the check or oppose payment;
- i. The necessity of protest or other equivalent act for the preservation of rights against the endorsers, the drawer, or other obligated parties;
- j. The measures to be taken in case of robbery, theft, forgery, loss, destruction, or of the instrument deteriorating to the point of being useless;
- k. In general, all matters relating to the payment of a check.

*Article 8.* Checks presented to an intraregional clearing house shall be governed by this Convention, where applicable.

*Article 9.* The law declared applicable under this Convention may be refused application in the territory of any State Party that considers it manifestly contrary to its public policy (*ordre public*).

*Article 10.* This Convention shall be open for signature by the Member States of the Organization of American States.

*Article 11.* This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

*Article 12.* This Convention shall remain open for accession by any other State. The instrument of accession shall be deposited with the General Secretariat of the Organization of American States.

*Article 13.* Each State may, at the time of signature, ratification, or accession, make reservations to this Convention provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purpose of this Convention.

*Article 14.* This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification. For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

When the States Parties to the Inter-American Convention on Conflicts of Laws concerning Checks, signed at Panama City, Republic of Panama, on January 30, 1975,<sup>1</sup> ratify this Convention or accede to it, the former Panama Convention shall no longer be in effect for those States Parties.

*Article 15.* If a State Party has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them.

Such declaration may be modified by subsequent variations, which shall expressly indicate the territorial unit or units to which the Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

*Article 16.* This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

*Article 17.* The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which will forward an authenticated copy of the text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of its Charter. The General Secretariat of the Organization of American States shall notify the Member States of that Organization and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession, and denunciation, as well as of reservations, if any. It shall also transmit the declarations referred to in Article 15 of this Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Montevideo, Republic of Uruguay, this eighth day of May one thousand nine hundred and seventy-nine.

[For signature pages, see p. 16 of this volume.]

<sup>1</sup> United Nations, *Treaty Series*, vol. 1438, No. I-24383.

Por Grenada:  
For Grenada:  
Por Grenada:  
Pour la Grenade :

Por Suriname:  
For Suriname:  
Pelo Suriname:  
Pour le Suriname :

Por Ecuador:  
For Ecuador:  
Pelo Ecuador:  
Pour l'Équateur :

[*Signed — Signé*]  
WILSON VELA HERVAS

Por la República Argentina:  
For the Argentine Republic:  
Pela República Argentina:  
Pour la République Argentine :

Por Uruguay:  
For Uruguay:  
Pelo Uruguai:  
Pour l'Uruguay :

[*Signed — Signé*]<sup>1</sup>  
MANUEL A. VIEIRA

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<sup>1</sup> For the text of the declaration made upon signature, see p. 21 of this volume — Pour le texte de la déclaration faite lors de la signature, voir p. 21 du présent volume.

Por Colombia:  
For Colombia:  
Pela Colômbia:  
Pour la Colombie :

[*Signed — Signé*]  
[*Signed — Signé*]  
ALVARO LEAL MORALES  
FABIO TORRIJOS QUINTERO

Por Haïti:  
For Haiti:  
Pelo Haïti:  
Pour Haïti :

[*Signed — Signé*]  
[*Signed — Signé*]  
[*Signed — Signé*]  
YVES FRANÇOIS  
RODRIGUE CASIMIR  
VICTOR PIERRE-LOUIS

Por Mexico:  
For Mexico:  
Pelo México:  
Pour le Mexique :

Por Brasil:  
For Brazil:  
Pelo Brasil:  
Pour le Brésil :

[*Signed — Signé*]  
HAROLDO TEIXEIRA VALLADÃO

Por Panamá:  
For Panama:  
Pelo Panamá:  
Pour Panama :

[*Signed — Signé*]  
JUAN MATERNO VASQUEZ

Por Perú:  
For Peru:  
Pelo Peru:  
Pour le Pérou :

[*Signed – Signé*]  
LUIS ALVARADO GARRIDO

Por Nicaragua:  
For Nicaragua:  
Por Nicarágua:  
Pour le Nicaragua :

Por El Salvador:  
For El Salvador:  
Por El Salvador:  
Pour Le Salvador :

Por Bolivia:  
For Bolivia:  
Pela Bolívia:  
Pour la Bolivie :

Por Venezuela:  
For Venezuela:  
Pela Venezuela:  
Pour le Venezuela :

[*Signed – Signé*]  
GONZALO PARRA ARANGUREN

Por Paraguay:  
For Paraguay:  
Pelo Paraguai:  
Pour le Paraguay :

[*Signed – Signé*]  
RAMÓN SILVA ALONSO

Por Guatemala:  
For Guatemala:  
Pela Guatemala:  
Pour le Guatemala :

[*Signed — Signé*]  
[*Signed — Signé*]  
JUAN JOSÉ RODAS MARTINEZ  
FRANCISCO VILLAGRÁN KRAMER

Por Barbados:  
For Barbados:  
Por Barbados:  
Pour la Barbade :

Por Trinidad y Tobago:  
For Trinidad and Tobago:  
Por Trinidad e Tobago:  
Pour la Trinité et Tobago :

Por Costa Rica:  
For Costa Rica:  
Por Costa Rica:  
Pour Costa Rica :

[*Signed — Signé*]  
GONZALO ORTÍZ MARTÍN

Por los Estados Unidos de América:  
For the United States of America:  
Pelo Estados Unidos da América:  
Pour les Etats-Unis d'Amérique :

Por la República Dominicana:  
For the Dominican Republic:  
Pela República Dominicana:  
Pour la République Dominicaine :

[*Signed — Signé*]  
MARIA ELENA MUÑOZ DE RICART



Por Honduras:  
For Honduras:  
Por Honduras:  
Pour le Honduras :

[*Signed — Signé*]  
ADOLFO LEÓN GOMEZ

Por Chile:  
For Chile:  
Pelo Chile:  
Pour le Chili :

[*Signed — Signé*]  
CARLOS FERREIRA CANNOBBIO

Por Jamaica:  
For Jamaica:  
Pela Jamaica:  
Pour la Jamaïque :

DECLARATION MADE  
UPON SIGNATURE

URUGUAY

DÉCLARATION FAITE  
LORS DE LA SIGNATURE

URUGUAY

[SPANISH TEXT — TEXTE ESPAGNOL]

Alcance que le otorga al orden público:

“La República Oriental del Uruguay manifiesta que ratifica de modo expreso la línea de pensamiento sostenida en Panamá — CIDIP-I — reafirmando su acendrado espíritu panamericanista y su decisión clara y positiva de contribuir con sus ideas y su voto, al efectivo desenvolvimiento de la comunidad jurídica.

Esta línea de pensamiento y conducta ha quedado patentizada en forma indubitable con la ratificación sin reservas por parte del Uruguay de todas las Convenciones de Panamá aprobadas por Ley N° 14.534 del año 1976.

En concordancia con lo que antecede, la República Oriental del Uruguay da su voto afirmativo a la fórmula del orden público, sin perjuicio de dejar expresa y claramente señalado, de conformidad con la posición sustentada en Panamá, que, según su interpretación acerca de la prealudida excepción, ésta se refiere al orden público internacional, como un instituto jurídico singular, no identificable necesariamente con el orden público interno de cada Estado.

Por consecuencia, a juicio de la República Oriental del Uruguay, la fórmula aprobada comporta una autorización excepcional a los distintos Estados Partes para que en forma no discrecional y fundada, declaren no aplicables los preceptos de la ley extranjera cuando éstos ofendan en forma concreta, grave y manifiesta, normas y principios esenciales de orden público internacional en los que cada Estado asiente su individualidad jurídica.”

[TRANSLATION]<sup>1</sup>

The scope of public order:

Uruguay wishes to state that it expressly ratifies the line of thought enunciated in Panama at CIDIP-I, reaffirming its genuine Pan American spirit and its clear and positive decision to contribute with its ideas and endorsement to the successful development of the legal community.

This line of thinking and conduct has been evidenced in undoubtable form by the unreserved ratification by Uruguay of all the Conventions of Panama, approved by Law 14,534 in 1976.

[TRADUCTION]<sup>1</sup>

Sens et portée du concept d'ordre public :

La République orientale de l'Uruguay déclare qu'elle s'en tient à la ligne qu'elle a suivie à Panama, lors de la CIDIP-I. Elle réaffirme sa foi vive en le Panaméricanisme ainsi que sa décision nette et ferme de contribuer par ses idées et son vote au développement harmonieux de l'ordre juridique.

Cette position a été mise en évidence de façon manifeste avec la ratification sans réserves de la part de l'Uruguay de toutes les conventions conclues à Panama et approuvées par la loi n° 14 534 de 1976.

<sup>1</sup> Translation supplied by the Organization of American States.

<sup>1</sup> Traduction fournie par l'Organisation des Etats américains.

In line with the foregoing, Uruguay gives its affirmative vote to the formula regarding public order. Nevertheless, Uruguay wishes to state expressly and clearly that, in accordance with the position it maintained in Panama, its interpretation of the aforementioned exception refers to international public order as an individual juridical institution, not necessarily identifiable with the internal public order of each State.

Therefore, in the opinion of Uruguay, the approved formula conveys an exceptional authorization to the various States Parties to declare in a nondiscretionary and well-founded manner that the precepts of foreign law are inapplicable whenever these concretely and in a serious and open manner offend the standards and principles essential to the international public order on which each individual State bases its legal individuality.

DECLARATION MADE  
UPON RATIFICATION

URUGUAY

*[Confirming the declaration made upon signature. See p. 21 of this volume.]*

Dans ce contexte, la République orientale de l'Uruguay, émet un vote positif pour ce qui a trait à la définition de l'ordre public. Cependant, toujours dans la ligne de la position qu'elle a adoptée à Panama, elle spécifie clairement que selon son interprétation de l'exception précitée : celle-ci ne vise que l'ordre public international, en tant qu'institution juridique particulière, qui ne s'identifie pas nécessairement à l'ordre public interne de chaque Etat.

En conséquence, la République orientale de l'Uruguay estime que la définition adoptée autorise les Etats parties, à titre exceptionnel, pour des raisons justifiées et de manière non discriminatoire, à déclarer que les préceptes de la loi étrangère ne sont pas applicables dès lors qu'ils constituent une violation concrète, grave et manifeste des principes essentiels de l'ordre public international, qui sont à la base de l'individualité juridique de chaque Etat.

DÉCLARATION FAITE  
LORS DE LA RATIFICATION

URUGUAY

*[Avec confirmation de la déclaration faite lors de la signature. Voir p. 21 du présent volume.]*