

CSIS Technology Forum

Jurisdiction and the Recognition of Foreign Civil Judgments
Jeffrey Kovar

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On November 7, the CSIS Technology Forum was host to Mr. Jeffrey Kovar, Assistant Legal Advisor for Private International Law at the U.S. Department of State. Speaking to an audience of nearly thirty representatives from government, industry, and academia, Mr. Kovar outlined the lengthy history of the Hague Convention on Jurisdiction and the Recognition and Enforcement of Foreign Civil Judgments and explored options for restarting the now-stalled treaty negotiations.

The Hague Convention was born in 1992, when the United States approached the intergovernmental Hague Conference on Private International Law seeking to negotiate a compact to assure the cross-border recognition and enforcement of civil court rulings. When the Conference began writing the treaty in 1996, several European members insisted that it also address jurisdiction, a decision that presaged a long road ahead. As it turned out, negotiations were originally supposed to end in the fall of 2000, but the talks broke up altogether around that time. The issue now is not only how to repair the broken treaty, but how to even go about addressing its faults.

Nearly all involved in the negotiations agree that the Convention has a ways to go, but also that it is worth pursuing. To that end, members of the Hague Conference will convene again in March 2001 to establish a new meeting schedule and agenda. One option for salvaging the treaty is shifting to a bottom-up approach and reconstructing it from individual (and relatively non-controversial) aspects of the larger legal issues at stake, for example the enforceability of business-to-business contractual choice of forum clauses. Another option is to focus solely on non-Internet matters (e.g., product liability claims), at least for the time being.

Information about the Hague Convention can be obtained from the Hague Conference website on the treaty (<http://www.hcch.net/e/workprog/jdgm.html>), as well as the website of the State Department's Office of the Legal Advisor for Private International Law (<http://www.state.gov/s/l/index.cfm?id=3452>). In addition, the non-profit organization Consumer Projects on Technology has compiled a substantial repository of documents and articles related to the Convention, available at <http://www.cptech.org/ecom/jurisdiction/hague.html> .