



Commission de l'OMT pour l'Europe

Soixante et unième réunion

Chisinau (République de Moldova), 6 juin 2017

Point 6 a) de l'ordre du jour provisoire

CEU/61/6 a)
Madrid, mars 2017
Original : Anglais

Point 6 a) de l'ordre du jour provisoire

RAPPORT SUR LE PROJET DE CONVENTION DE L'OMT SUR

La protection des touristes et les droits et les obligations des prestataires
de services touristiques

Note du Secrétaire général

Le Secrétaire général présente aux membres de la Commission de l'OMT pour l'Europe le rapport sur le projet de Convention de l'OMT sur la protection des touristes et les droits et les obligations des prestataires de services touristiques.

Rapport sur le projet de Convention de l'OMT sur la protection des touristes et les droits et les obligations des prestataires de services touristiques

I. Introduction

1. Le présent document fait suite aux précédents rapports soumis au Conseil exécutif à ses quatre-vingt-huitième, quatre-vingt-neuvième, quatre-vingt-dixième, quatre-vingt-treizième, quatre-vingt-quatorzième, quatre-vingt-quinzième, centième, cent troisième et cent quatrième sessions et à l'Assemblée générale à ses dix-neuvième, vingtième et vingt et unième sessions rappelant l'insuffisance des règles contraignantes existantes, à l'échelle mondiale, concernant les droits et les obligations des touristes/consommateurs et des prestataires de services touristiques.
2. L'Assemblée générale, à sa vingt et unième session [Medellín (Colombie), 12-17 septembre 2015], a chargé le Secrétaire général de poursuivre l'élaboration du texte de la Convention, de présenter la version finale du texte de la Convention à la prochaine Assemblée générale pour approbation et d'informer de toute question connexe pouvant surgir en rapport avec la Convention et/ou la protection des touristes et des prestataires de services touristiques.
3. Le présent rapport résume les activités récentes menées dans ce domaine depuis la dernière session du Conseil exécutif.

II. Activités en vue de l'adoption d'une convention internationale sur la protection des touristes et des prestataires de services touristiques

4. Le secrétariat a lancé une consultation publique en août 2016 afin de donner la possibilité à tous les États membres de l'OMT de participer à la discussion du projet de Convention. Dans ce but, le secrétariat a envoyé la dernière version du projet de Convention à tous les États membres de l'OMT et les a invités à faire part de leurs commentaires et propositions pour améliorer le contenu de la Convention. Au cours de cette consultation publique étalée sur cinq mois (d'août à décembre 2016), le secrétariat a reçu des réponses de plus de 35 États membres et organisations internationales intéressées telles que la Commission européenne, l'OACI et IATA.
5. Par la suite, le Groupe de travail s'est réuni à plusieurs reprises pour avancer dans la discussion du contenu de la Convention à la lumière des commentaires reçus dans le cadre de la consultation publique. Il y a eu plusieurs réunions par téléconférence les 26 et 27 janvier (neuvième réunion du Groupe de travail), le 28 février ainsi que les 1^{er} et 14 mars (dixième réunion du Groupe de travail), et une ultime réunion à laquelle les participants étaient physiquement présents au siège de l'OMT les 28 et 29 mars 2017 (onzième réunion du Groupe de travail).
6. Dans l'intervalle, la Commission européenne, qui est un membre très important du Groupe de travail, a demandé au Conseil de l'Union européenne de lui donner un mandat officiel pour entamer les négociations avec le secrétariat de l'OMT sur la Convention. Ce mandat a été finalement approuvé fin mars 2017 pour la négociation de l'annexe II (Forfaits) et de l'annexe III (Hébergement), laissant ainsi toute latitude aux États membres européens pour négocier eux-mêmes l'annexe I.

7. Par souci de cohérence interne, le secrétariat de l'OMT a harmonisé le projet de Convention-cadre relative à l'éthique du tourisme et le projet de Convention sur la protection des touristes et les droits et les obligations des prestataires de services touristiques, en particulier les sections relatives à la Conférence des États parties et les dispositions finales.

III. Activités à venir

8. Le Groupe de travail continuera de débattre du contenu de la Convention et de soumettre des propositions au secrétariat.
9. Le secrétariat organisera des réunions bilatérales et multilatérales (principalement par vidéoconférence) en vue d'obtenir le maximum de consensus sur les principaux points de la Convention faisant encore débat.
10. Enfin, l'Assemblée générale étudiera la possibilité de donner mandat au secrétariat de l'OMT d'organiser une conférence diplomatique avant la prochaine Assemblée générale en 2019 aux fins de la négociation et de l'adoption de la Convention.

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UNWTO CONVENTION

On the Protection of Tourists and the Rights and Obligations of Tourism Service Providers

Preamble

The States Parties to this Convention,

Noting the development of tourism and its economic, social, cultural and sustainable role,

Having assessed the insufficiency and lack of consistency of existing rules at the global level governing the rights and obligations of tourists and of tourism service providers, particularly in a context of increasing diversification of destinations and generating countries,

Recognizing the need to establish uniform provisions relating to the protection of tourists and the rights and obligations of tourism service providers in order to enhance transparency and increase legal certainty for tourists and tourism service providers,

Desiring the achievement of an appropriate level of protection of tourists, the clarification of the rights and obligations of tourism service providers and the increase of the confidence of tourists, as consumers, in tourism service providers,

Aiming to achieve a fair balance between the interests of tourists and tourism service providers

Mindful of the importance of the assistance and protection of tourists provided by States in emergency situations,

Considering the UN General Assembly resolution A/RES/69/283 of 3 June 2015 endorsing the Sendai Declaration and the Sendai Framework for Disaster Risk Reduction 2015-2030 adopted by the Third United Nations World Conference on Disaster Risk Reduction,

Having examined existing tourist protection measures and practices of the Member States of the World Tourism Organization (hereinafter referred to as “UNWTO”), and other relevant international bodies,

¹ **Important note:** *This is a draft text (working document) for further comments and consideration by the UNWTO Working Group on the protection of tourists/consumers and travel organizers. It should not be considered as an official UNWTO proposal or document.*

Reasserting the aims set out in Article 3 of the Statutes of the UNWTO and aware of the “*decisive and central*” role of this Organization, as recognized by the General Assembly of the United Nations, in promoting and developing tourism with a view to contributing to economic development, international understanding, peace, prosperity and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction of any kind such as race, colour, gender, language, religion, political or other opinion, national or social origin, property birth or other status,

Acknowledging the UNWTO’s competence as stated in Article 12 of its Statutes, regarding the preparation and recommendation of international agreements on any question that falls within the competence of the Organization,

Bearing in mind the Global Code of Ethics for Tourism adopted by the UNWTO General Assembly resolution A/RES/406 (XIII) of 1 October 1999 and endorsed by the UN General Assembly resolution A/RES/56/212 of 21 December 2001,

Recalling the Guidelines for Consumer Protection approved by the 70th United Nations General Assembly resolution A/RES/70/186 of 4 February 2016 and particularly its paragraph 78 on Tourism under section K “Measures relating to specific areas”

Recognizing the 2030 Agenda for Sustainable Development approved by the 70th United Nations General Assembly resolution A/RES/70/1 of 21 October 2015,

Recalling also Resolutions adopted by the General Assembly of the UNWTO concerning the preparation of an international convention on tourist protection and its scope,

Have agreed as follows:

General Provisions

Article 1

Purpose and scope

1. The purpose of this Convention is to set out the policies and measures of States Parties to ensure and promote an appropriate degree of protection of tourists during emergency situations and as consumers by clarifying the rights and obligations of tourism service providers.
2. This Convention applies to States Parties, tourists, tourism service providers and tourism services with the exception of standalone transport services such as air, rail, road, maritime and inland waterway services.

Article 2

General principles

1. States Parties shall take measures to protect the interests of tourists and to ensure that tourism service providers respect the rights of tourists as set out in this Convention.
2. States Parties shall cooperate with each other in the formulation and application of necessary measures for the effective implementation of the Convention.
3. The provisions of this Convention shall not prejudice the tourists' and the tourism service providers' rights and actions against third parties.
- [4. States Parties may grant a higher level of protection to tourists than that set out in this Convention]

Article 3

Definitions

Unless otherwise indicated in the Annexes, for the purposes of this Convention the following definitions shall apply:

(a) "**Tourist**" means a person taking a trip which includes an overnight stay to a main destination outside his/her usual environment, for less than a year, for any main purpose (business, leisure or other personal purpose) other than to be employed by a resident entity in the country or place visited.

(b) "**Excursionist**" means a person taking a trip which does not include an overnight stay to a main destination outside his/her usual environment. For the purpose of this Convention any reference to tourists constitutes at the same time a reference to excursionists.

(c) "**Tourism service**" means the provision of any of the following services provided for tourists, in a separate or combined manner, such as:

- (i) Accommodation services;
- (ii) Food and beverage services;
- (iii) Railway, road, water or air passenger transport services;
- (iv) Transport rental services;
- (v) Travel agencies and other reservation services;
- (vi) Cultural, religious or sports events;
- (vii) Other leisure services provided to tourists.

(d) "**Tourism service provider**" means any natural person or any legal person (irrespective of whether privately or publicly owned) who sells, offers to sell, supplies or undertakes to supply a tourism service to the tourist;

(e) "**Standards**" means mandatory minimum requirements for States Parties;

(f) "**Recommended practices**" mean non-mandatory measures the application of which, by States Parties, is desirable;

(g) “**Host country**” means the State Party on the territory of which an unavoidable and extraordinary circumstance or an emergency situation has occurred or has its consequences;

(h) “**Country of origin**” means the State Party of which the tourist has nationality or which at the time of the unavoidable and extraordinary circumstance or the emergency situation the tourist has his or her principal and permanent residence;

Article 4

Acceptance of requirements of the Convention

1. When ratifying, accepting, approving or acceding to this Convention, a State Party shall accept at the minimum one Annex to this Convention to be indicated in the instrument of ratification or in a declaration appended in that instrument. The Secretary-General shall maintain a register of this information and shall make it available to all interested parties.

2. A State Party may at any time extend its acceptance to one or several other Annexes

to the Convention by written notification to the depositary. Such action shall become effective immediately upon receipt of the notification to the depositary.

3. A State Party may at any time withdraw its acceptance of one or several Annexes to the Convention by written notification to the depositary provided it continues to accept at least one Annex. Such withdrawal shall become effective six months after its notification to the depositary.

Article 5

Annexes

The Annexes to this Convention including standards and recommended practices shall form an integral part of this Convention, and, unless expressly stated otherwise, a reference to this Convention constitutes at the same time a reference to any Annexes thereto.

Article 6

Standards

States Parties shall take all necessary measures, in accordance with their national laws and practices, in order to implement the requirements in the standards of this Convention.

Article 7

Recommended practices

1. States Parties shall give due consideration to implementing the recommended practices of this Convention.
2. The Conference of States Parties may amend the recommended practices in this Convention or adopt additional ones by following the procedure established under article 16 of this Convention.
3. The amendment of recommended practices or the adoption of additional ones are not subject to ratification, acceptance, approval or accession.
4. The recommended practices shall be notified by the Secretary-General of the UNWTO to all States Parties not later than thirty days after their adoption or amendment.

Article 8

Conference of States Parties

1. The Conference of States Parties shall be the plenary and supreme body of this Convention composed of representatives of all States Parties.
2. The Conference of State Parties shall meet in ordinary sessions every two years in conjunction with the General Assembly of the UNWTO. It may meet in extraordinary session if it so decides or if the Secretary-General of the UNWTO receives a request to that effect from at least one-third of the States Parties.
3. Attendance of any session of the Conference of the States Parties by delegates representing the majority of the States Parties shall constitute a quorum.
4. The Conference of States Parties shall adopt its own Rules of Procedure.
5. The functions of the Conference of States Parties shall include, *inter alia*:
 - (a) Receiving and examining reports of the States Parties to this Convention transmitted by the Secretary-General of the UNWTO;
 - (b) Considering and adopting amendments to this Convention;
 - (c) Considering issues arising from the interpretation of this Convention;
 - (d) Adopting plans and programmes for the implementation of this Convention; and
 - (e) Taking any measures it may consider necessary to further the objectives of this Convention.
6. The Conference of States Parties can invite observers to its meetings. The admission and participation of observers shall be subject to the Rules of Procedure adopted by the Conference of States Parties.

Article 9

UNWTO Secretariat

1. The Conference of States Parties shall be assisted by the Secretariat of the UNWTO.
2. The Secretariat shall prepare the documentation of the Conference of States Parties as well as the agenda of their meetings and shall assist in and report on the implementation of their decisions.

Article 10

Relationship with other international agreements

1. No provision in this Convention shall be construed as preventing the States Parties from engaging in mutual cooperation within the framework of other existing or future international, bilateral, or multilateral agreements, or of any other applicable arrangements or practices.
2. The provisions of the present Convention shall not affect and shall not be interpreted or applied inconsistently with conventions or other international agreements already in force between the States Parties.

Article 11

Report

1. States Parties shall submit every two years a comprehensive report to the Secretary-General of the World Tourism Organization about the implementation of the standards and recommended practices in accordance with their national laws and practices and any other measure implemented by them directly or indirectly related to the purpose of this Convention.
2. The Secretary-General of the UNWTO shall report to each session of the General Assembly of the UNWTO on the operation, implementation or modification of this Convention. A copy of this report shall be communicated to the Conference of the States Parties.

Final Provisions

Article 12

Signature

1. This Convention shall be open for signature by all Member States of the UNWTO and all Member States of the United Nations at the twenty-second session of the General Assembly of the UNWTO which adopted this Convention in VENUE, on DATE, and thereafter at the Headquarters of the UNWTO in Madrid until DATE.
2. The present Convention shall similarly be open for signature by regional economic integration organizations.

Article 13

Ratification, acceptance, approval or accession

This Convention is subject to ratification, acceptance, approval or accession by States and by Regional economic integration organizations.

Article 14

Participation by Regional economic integration organizations

1. Regional economic integration organizations that are constituted by sovereign States and have competences over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. Regional economic integration organizations shall in that case have the rights and obligations of State Parties, to the extent that those organizations have competences over matters governed by this Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under this Convention concurrently.
2. Regional economic integration organizations, shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the depositary specifying the matters governed by this Convention in respect of which competence has been transferred to those organizations by its Member States. Regional economic integration organizations shall promptly notify the depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their Member States that are Parties to the present Convention. Such Organizations shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.
4. Any reference to a “State Party” or “States Parties” in this Convention applies equally to a Regional economic integration organization where the context so requires.

Article 15

Entry into force

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification, acceptance, approval or accession.
2. For each State Party ratifying, accepting, approving or accessing to the Convention after the deposit of the tenth instrument of ratification acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following deposit by such State Party of its instrument of ratification, acceptance, approval or accession.
3. For the purpose of this article and Article 16, any instrument deposited by a Regional economic integration organization shall not be counted as additional to those deposited by Member States of that Organization.

Article 16

Amendment of the Convention

1. At any time after the entry into force of this Convention any State Party may propose amendments to this Convention and submit them to the Secretary-General of the UNWTO.
2. The text of any proposed amendment shall be communicated by the Secretary-General of the UNWTO to all States Parties at least ninety days before the opening of the session of the Conference of States Parties.
3. Amendments shall be adopted by a two-thirds majority vote of the States Parties present and voting in the Conference of States Parties and shall be transmitted by the Secretary-General of the UNWTO to the States Parties for ratification, acceptance, approval or accession.
4. Instruments of ratification, acceptance, approval or accession to the amendments shall be deposited with the Secretary-General of the UNWTO.
5. Amendments adopted in accordance with paragraph 3 shall enter into force six months after the date of their adoption for any State that has ratified this Convention, unless such State has given written notice to the Secretary-General of the UNWTO that it shall not enter into force for that State, or shall only enter into force at a later date upon subsequent written notification.
6. After entry into force of an amendment to this Convention, the Convention may only be ratified in its amended form.

Article 17

Denunciation

1. This Convention shall remain in force indefinitely, but any State Party may denounce it at any time by written notification. The instrument of denunciation shall be deposited with the Secretary-General of the UNWTO.
2. Denunciation of the Convention shall involve the immediate denunciation of its Annexes. The denunciation shall take effect one year after the receipt of the instrument of denunciation by the Depositary or at a later date specified in the notification of the denunciation.
3. The denunciation shall not affect any requests for information or assistance made, or procedure for the peaceful settlement of disputes commenced during the time the Convention is in force for the denouncing State Party.

Article 18

Dispute settlement

Any dispute that may arise between States Parties as to the application or interpretation of this Convention shall be resolved through diplomatic channels or, failing which, by any other means of peaceful settlement decided upon by the States Parties involved.

Article 19

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be regarded as equally authentic.

Article 20

Depositary

1. The Secretary-General of the UNWTO shall be the depositary of this Convention.
2. The Secretary-General of the UNWTO shall transmit certified copies to each of the signatory States Parties.
3. The Secretary-General of the UNWTO shall notify the States Parties of the signatures, of the deposits of instruments of ratification, acceptance, approval and accession, amendments and denunciation.

Article 21

Registration

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretary-General of the United Nations by the request of the Secretary-General of the UNWTO.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at VENUE, on DATE

Annexes to the UNWTO Convention

Annex I - Assistance obligation of the States Parties in emergency situations

Article 1. Definition

Article 2. Obligation of assistance cooperation and information in emergency situations

Annex II - Package travel

Article 1. Definitions

Article 2. Pre-contractual information obligations

Article 3. Binding character of pre-contractual information and conclusion of the package travel contract

Article 4. Contractual information obligations

Article 5. Transfer of the package travel contract to another tourist

Article 6. Alteration of the price

Article 7. Alteration of other package travel contract terms

Article 8. Termination of the package travel contract before the start of the package

Article 9. Failure of performance or improper performance

Article 10. Assistance obligation in case of unavoidable and extraordinary circumstances

Article 11. Protection in the event of the insolvency of the organiser

Article 12. Insolvency protection and information requirements for linked travel arrangements

Annex III - Accommodation

Article 1. Definitions

Article 2. Pre-contractual information obligations

Article 3. Contractual information obligations

Article 4. Failure of performance or improper performance

Article 5. Assistance obligation in case of unavoidable and extraordinary circumstances

Annex I

Assistance obligation of the States Parties in emergency situations

Each State Party for which this Annex of the Convention is in force shall act in accordance with the mandatory standards and should give due consideration to the recommendations set out below.

Article 1

Definition

Standard 1. For the purposes of this Annex, the following definitions shall apply:

“Emergency situations” means unusual, extraordinary or unforeseeable circumstances, whether natural or man-made, beyond the control of the host country, that have resulted in the need of assistance on a large scale;

“Repatriation” means the tourist’s return to the place of departure or to another place the States Parties in consultation with the tourists agree upon;

Article 2

Obligation of assistance, cooperation and information in emergency situations

Standard 2.1 In emergency situations, the host country shall make its best endeavours to assist the tourists and facilitate the satisfaction of their primary and basic needs. The assistance shall include – if materially and technically possible – the provision or facilitation of the following:

- (a) Communication services;
- (b) Temporary shelters for accommodation;
- (c) Necessary food and beverage services;
- (d) Visa requirements, and cross-border procedures;
- (e) Transportation; and
- (f) Basic medicines and emergency health care on a temporary basis.

Standard 2.2 In emergency situations, the tourist’s country of origin shall cooperate with the host country especially in facilitating necessary operational measures including repatriation of the tourist.

Standard 2.3 The host country shall transmit, as soon as practicable and feasible, to the diplomatic and consular authorities of the country of origin of the tourist involved in the emergency situation the following information, if available:

- (a) General circumstances of the emergency situation;
- (b) Affected geographical areas;
- (c) Number and nationalities of tourists in the affected area;
- (d) Personal data of the tourist required for assistance purposes;
- (e) Location of the tourist;
- (f) Data of casualties;
- (g) Operational measures taken; and
- (h) Other related data.

The country of origin shall also transmit to the diplomatic and consular authorities of the host country, the information stated above, if available, and all the relevant information which may be proportionate for the assistance of the tourists.

Standard 2.4 In emergency situations, the host country shall make its best endeavours to operationally assist and facilitate the entry, stay and freedom of movement in its territory of any official, medical and technical staff and their equipment sent by the tourist's country of origin, by issuing, as rapidly as possible, any prior authorization (including the granting of temporary visas and/or entry requirements, work permits) that may be required in order to provide the necessary assistance to the tourists.

The incoming official, medical and technical staff shall respect the national laws and practices of the host country.

Standard 2.5 In emergency situations, the host country and country of origin shall transmit all available information – in conformity with any applicable law on personal data protection-to the UNWTO as detailed in Standard 2.3 above mentioned.

Standard 2.6 Upon the ratification, acceptance, approval or accession to the Convention, States Parties shall communicate to the Secretariat of the UNWTO the contact details of the related authorities, bodies or organizations at the national level which are responsible and designated for emergency situations. States Parties shall update the contact details annually and inform the Secretariat of the UNWTO about any modification intervening in the meantime.

Standard 2.7 In emergency situations, when the life, health or the personal integrity of the tourists is exposed to direct danger, the host country shall carry out additional necessary operational measures in addition to the measures indicated in Standards 2.1 to 2.6 above mentioned. The operational measures shall include – if materially and technically possible:

- (a) Coordination of evacuation;
- (b) Emergency staff;
- (c) Health and medical services; and
- (d) Security staff.

Standard 2.8 This Convention shall not prejudice the application of general consular laws and practices by the States Parties.

Recommended Practice 2.1 The “*Recommendations on the Use of Georeferences, Date and Time in Travel Advice and Event Information*” adopted by the General Assembly of the UNWTO (A/RES/593(XIX)) should be taken into consideration in the dissemination of the information indicated in Standard 2.3 above mentioned.

Recommended Practice 2.2 States Parties should set up permanent, professional crisis management services in order to facilitate operational measures in emergency situations.

Recommended Practice 2.3 States Parties should carry out local contingency planning that includes sufficient provision for tourists to ensure comprehensive preparedness for emergency situations.

Recommended Practice 2.4 States Parties should take necessary measures to ensure that services are set up in all means of transport terminals capable of assisting tourists in emergency situations. The before mentioned services should be adapted to the size of the transport terminals.

Recommended Practice 2.5 The host country should make immediate contact with the local representative or local agency of tourism service providers, as necessary, in order to assist the tourists. Where such local representatives do not exist, contacts should be made directly with the tourism service providers.

Recommended Practice 2.6 States Parties should consider extending the facilities provided for in Standard 2.4 to the personnel and equipment sent by third states or organizations that offer their assistance in the emergency situation.

Annex II

Package travel

Each State Party for which this Annex of the Convention is in force shall act in accordance with the mandatory standards and should give due consideration to the recommendations set out below.

Article 1

Definitions

Standard 1.1 For the purposes of this Annex, the following definitions shall apply:

(a) **“Trader”** means any natural person or any legal person (irrespective of whether privately or publicly owned) who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Annex, whether acting in the capacity of organiser, retailer, trader facilitating a linked travel arrangement or as a tourism service provider;

(b) **“Organiser”** means a trader who organizes packages and sells or offers them for sale, whether directly or through another trader, or with another trader or the trader who transmits the traveller's data to another trader in accordance with point (d) (ii) (e)" in order to fully capture the situation in point (d) (ii) (e);

(c) **“Retailer”** means a trader other than the organiser who sells or offers for sale packages combined by an organiser;

(d) **“Package”** means a combination of not fewer than two types of tourism services for the purpose of the same trip or holiday, when the package covers a period of more than twenty-four hours or includes overnight accommodation provided that:

- (i) Those tourism services are combined by one trader, including at the request of or in accordance with the selection of the tourist before a single contract on all services is concluded; or
- (ii) Irrespective of whether separate contracts are concluded with individual tourism service providers, those services are:
 - a. Purchased from a single point of sale and those services have been selected before the tourist agrees to pay;
 - b. Offered, sold or charged at an inclusive or total price;
 - c. Advertised or sold under the term 'package' or under a similar term;
 - d. Combined after the conclusion of a contract by which a trader entitles the tourist to choose among a selection of different types of tourism services; or

- e. Purchased from separate traders through linked online booking processes where the tourist's name, payment details and e-mail address are transmitted from the trader with whom the first contract is concluded to another trader or traders and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first tourism service.

A combination of tourism services where not more than one type of tourism service as referred to in point (i), (ii) or (iii) of the definition of tourism service is combined with one or more travel services as referred to in point (iv) of that definition is not a package if the latter services:

- (i) do not account for a significant proportion of the value of the combination and are not advertised as and do not otherwise represent an essential feature of the combination; or
- (ii) are selected and purchased only after the performance of a tourism service as referred to in point (i), (ii) or (iii) of the definition of tourism service has started.

(e) "**Tourism service**" means:

- (i) Passenger transport;
- (ii) Accommodation which is not intrinsically part of the passenger transport and is not for residential purposes;
- (iii) Rental of cars or other motor vehicles; and
- (iv) Other tourism services that are not intrinsically part of the tourism service with the meaning of points (i), (ii) or (iii) of this definition.

(f) "**Package travel contract**" means the contract on the package as a whole or, if the package is provided under separate contracts, all contracts covering tourism services included in the package;

(g) "**Unavoidable and extraordinary circumstances**" means a situation beyond the control of the party who invokes such a situation and the consequences of which could not have been avoided even if all reasonable measures had been taken.

(h) "**Repatriation**" means the tourist's return to the place of departure or to another place the contracting parties agree upon;

(i) "**Linked travel arrangement**" means at least two different types of tourism services which cover a period of more than twenty-four hours or include overnight accommodation purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual tourism service providers, if a trader facilitates:

- (a) On the occasion of a single visit or contact with his point of sale, the separate selection and separate payment of each tourism service by tourists; or
- (b) In a targeted manner, the procurement of at least one additional tourism service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first tourism service.

Where not more than one type of tourism service as referred to in point (i), (ii) or (iii) of the definition of tourism service and one or more tourism services as referred to in point (iv) of the same definition are purchased, they do not constitute a linked travel arrangement if the latter services do not account for a significant proportion of the combined value of the services and are not advertised as, and do not otherwise represent, an essential feature of the trip or holiday;

(j) “**Lack of conformity**” means a failure to perform or improper performance of the tourism services included in a package;

(k) “**Durable medium**” means any instrument which enables the tourist or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

Standard 1.2 A person travelling for purposes related to his/her trade, craft, business or profession (business traveller) is considered as a tourist, unless the package is purchased on the basis of a general agreement for the arrangement of business travel between a trader and another natural or legal person who is acting for purposes relating to his trade, business, craft or profession.

Standard 1.3 This Annex does not apply to packages offered and linked travel arrangements facilitated occasionally and on a not-for-profit basis and only to a limited group of tourists.

Article 2

Pre-contractual information obligations

Standard 2.1 States Parties shall take the necessary measures to ensure that, before the conclusion of the package travel contract, the organiser and, where the package is sold through a retailer, also the retailer provides the tourist, and, where applicable to the package, with adequate information on:

- (a) Travel destination(s), itinerary and periods of stay, with dates and, where accommodation is included, the number of nights included;
- (b) The location, main features and, where applicable, tourists category of the accommodation under the rules of the country of destination;
- (c) The means, characteristics and categories of passenger transport, the points, dates and time of departure and return, the duration and places of intermediate stops and transport connections;
- (d) The trading name and geographical address of the organiser and, where applicable, of the retailer, as well as their telephone number and, where applicable, e-mail address;
- (e) Meal plan;
- (f) General information on passport and visa requirements and health formalities required;
- (g) Visits, excursion(s) or other services included in the package;

- (h) Total price of the package inclusive of taxes and where applicable all additional fees, charges and other costs or, where those costs cannot reasonably be calculated in advance of the conclusion of the contract, an indication of the type of additional costs which the tourist may still have to bear;
- (i) The arrangements for payment, including the advance payment to be made at the time of booking and the schedule for paying the balance or financial guarantees to be paid or provided by the tourist;
- (j) Information that the tourist may terminate the contract at any time before the start of the package in return for payment of an appropriate termination fee, or, where applicable, the standardized termination fees requested by the organiser; and
- (k) Where it is not apparent from the context, whether any of the tourism services will be provided to the tourist as part of a group and, if so, where possible, the approximate size of the group;

Standard 2.2 The information referred to in Standard 2.1 mentioned above shall be provided in a clear, comprehensible and prominent manner. Where such information is provided in writing, it shall be legible.

Recommended Practice 2.1 States Parties should take the necessary measures to ensure that, before the conclusion of the package travel contract, the organiser and, where the package is sold through a retailer, also the retailer provides the tourist in any appropriate form with additional information on:

- (a) The optional or compulsory conclusion of an insurance policy to cover the cost of cancellation by the tourist or the cost of assistance, including repatriation, in the event of accident or illness;
- (b) Information on the tourist's right to transfer the contract to another tourist and conditions for transferring the package travel contract;
- (c) Whether the trip or holiday is generally suitable for persons with reduced mobility;
- (d) Whether a minimum or maximum number of tourists are required for package travel to take place and the time-limit before the start of the package for the possible termination of the contract if such number is not reached
- (e) Other general terms and conditions applying to the package travel contract; and
- (f) Where the tourist's benefit from other tourism services depends in effective oral communication, the language in which those tourism services will be carried out.

Article 3

Binding character of pre-contractual information and conclusion of the package travel contract

Recommended Practice 3.1 States Parties should ensure that the information provided to the tourist shall form an integral part of the package travel contract and shall not be altered unless the contracting parties expressly agree otherwise. The organiser and, where applicable, the retailer shall communicate all changes to the pre-contractual

information to the tourist in a clear, comprehensible and prominent manner before the conclusion of the package travel contract.

Recommended Practice 3.2 States Parties should ensure that if the organiser and, where applicable, the retailer has not complied with the information requirements on additional fees, charges or other costs before the conclusion of the package travel contract, the tourist shall not bear those fees, charges or other costs.

Article 4

Contractual information obligations

Standard 4.1 States Parties shall take the necessary measures to ensure that the package travel contracts are in plain and intelligible language and, insofar as they are in writing, legible. At the conclusion of the package travel contract or without undue delay thereafter, the organiser or retailer shall provide the tourist with a copy or confirmation of the contract on a durable medium. The tourist shall be entitled to request a paper copy if the package travel contract has been concluded in the simultaneous physical presence of the parties.

Standard 4.2 States Parties shall take the necessary measures to ensure that the package travel contract includes all the information referred in Standard 2.1 of the above mentioned Article 2 regarding the standard pre-contractual information and the following elements if relevant and applicable to the particular package:

- (a) The name of the entity in charge of the insolvency protection and its contact details, including its geographical address and, where applicable, the name of the competent authority designated by the States Parties concerned for that purpose and its contact details;
- (b) Information that the organiser is responsible for the proper performance of all tourism services included in the contract and obliged to provide assistance if the tourist is in difficulty;
- (c) Information that the tourist is required to communicate any lack of conformity which he perceives during the performance of the package; and
- (d) Special requirements which the tourist has communicated to the trader when making the booking and which both contracting parties have accepted.

Standard 4.3 States Parties shall take the necessary measures to ensure that the burden of proof regarding compliance with the information requirements laid down in this Annex shall be on the trader.

Recommended Practice 4.1 The package travel contract should include the following additional elements:

- (a) Identification of the tourist (name, address, telephone number and, where applicable, e-mail address);
- (b) Information on the operating permit for the organiser and where applicable the retailer, if relevant;
- (c) General terms and conditions applying to the package travel contract such as conditions for modifying the package travel contract, information on cancellation policy indicating deadlines;
- (d) Information on available complaint procedures and on alternative dispute resolution mechanisms;
- (e) Contact details of the organiser's local representative or local agencies, and where such local representatives do not exist, other facilities available to contact the organiser;
- (f) Where minors, unaccompanied by a parent or another authorized person, travel on the basis of a package travel contract which includes accommodation,

- information enabling direct contact with the minor or the person responsible for the minor at the minor's place of stay; and
- (g) Other provisions provided for under mutual agreement.

Article 5

Transfer of the package travel contract to another tourist

Recommended Practice 5.1 States Parties should take the necessary measures to ensure that a tourist may, after giving the organiser reasonable notice on a durable medium before the start of the package, transfer the package travel contract to a person who satisfies all the conditions applicable to that contract. States Parties shall decide on the tourist's deadline for giving a reasonable notice.

Recommended Practice 5.2 States Parties should take the necessary measures to ensure that the transferor of the package travel contract and the transferee shall be jointly and severally liable for the payment of the balance due and for any additional fees, charges or other costs arising from the transfer. Those costs shall not be unreasonable and shall not exceed the actual cost incurred by the organiser due to the transfer of the package travel contract.

Recommended Practice 5.3 States Parties should take the necessary measures to ensure that the organiser shall provide the transferor with proof of the additional fees, charges or other costs arising from the transfer of the package travel contract.

Article 6

Alteration of the price

Standard 6.1 States Parties shall ensure that after the conclusion of the package travel contract, prices may be increased only if the contract expressly reserves that possibility and states that the tourist is entitled to a price reduction under Standard 6.4. Price increases shall be possible as a direct consequence of changes in:

- (a) The cost of fuel or other power sources;
- (b) The level of taxes or fees on the tourism services included in the contract imposed by third parties not directly involved in the performance of the package; or
- (c) The exchange rates relevant to the package.

Standard 6.2 States Parties shall take the necessary measures to ensure that after the conclusion of the package travel contract price increases do not exceed a maximum percentage of the total price of the package. This percentage shall be established by each State Party.

Standard 6.3 Irrespective of its extent, a price increase shall be possible only if the organiser notifies the tourist clearly and comprehensibly of it with a justification for that

increase and a calculation, on a durable medium at the latest 20 days before the start of the package.

Standard 6.4 If the package travel contract stipulates the possibility of price increases, the tourist shall have the right to a price reduction corresponding to any decrease in the costs referred to in Standard 6.1 above mentioned that occurs after the conclusion of the contract before the start of the package. In the event of a price decrease, the organiser should have the right to deduct actual administrative expenses from the refund owed to the tourist. At the tourist's request, the organiser should provide proof of those administrative expenses.

Article 7

Alteration of other package travel contract terms

Standard 7.1 States Parties shall ensure that, before the start of the package, the organiser may not unilaterally change package travel contract terms other than the price, unless:

- (a) The organiser has reserved that right in the contract;
- (b) The change is insignificant; and
- (c) The organiser informs the tourist of the change in a clear, comprehensible and prominent manner on a durable medium.

Standard 7.2 States Parties shall ensure that, if before the start of the package, the organiser is constrained to alter significantly any of the main characteristics of the tourism service as referred to in Standard 2.1 subparagraphs (a), (b), (c), (e), (g) and (k) of Article 2, or cannot fulfil the special requirements agreed on in the contract as referred to in Standard 4.2 subparagraph (d) of Article 4, or propose to increase the price of the package by more than a maximum percentage of the package's price established by each State Party in accordance with Article 6, the tourist may within a reasonable period specified by the organiser:

- (a) Accept the proposed change; or
- (b) Terminate the contract without paying a termination fee.

If the tourist terminates the package travel contract, the tourist may accept a substitute package where this is offered by the organiser, if possible of an equivalent or a higher quality.

Standard 7.3 The organiser shall without undue delay inform the tourist in a clear, comprehensible and prominent manner on a durable medium of:

- (a) The proposed changes referred to in Standard 7.2 and, where appropriate in accordance with Standard 7.4 mentioned below, their impact on the price of the package;
- (b) A reasonable period within which the tourist has to inform the organiser of his decision pursuant to Standard 7.2;
- (c) The consequences of the tourist's failure to respond within the period referred to point (b), in accordance with applicable national law; and

(d) Where applicable, the offered substitute package and its price.

Standard 7.4 Where the changes to the package travel contract result in a package of lower quality or cost, the tourist shall be entitled to an appropriate price reduction.

Standard 7.5 If the package travel contract is terminated pursuant to paragraph (b) of the above mentioned Standard 7.2 of this Chapter, and the tourist does not accept a substitute package, the organiser shall refund all payments made by or on behalf of the tourist without undue delay.

Article 8

Termination of the package travel contract before the start of the package

Recommended Practice 8.1 States Parties should ensure that the tourist may terminate the package travel contract at any time before the start of the package. The tourist may be required to pay an appropriate and justifiable termination fee to the organiser. The package travel contract may specify reasonable standardised termination fees based on the time of the termination of the contract before the start of the package.

Recommended Practice 8.2 Notwithstanding the above mentioned Recommended Practice 8.1 States Parties should ensure that the tourist may have the right to terminate the package travel contract and receive a full refund of any payments made before the start of the package without paying any termination fee in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and significantly affecting the performance of the package, or which significantly affect the passenger transport to the destination. In the event of termination of the package travel contract the tourist should be entitled to a full refund of any payments made for the package but should not be entitled to additional compensation.

Recommended Practice 8.3 The organiser may terminate the package travel contract and provide the tourist with a full refund of any payments made for the package, but shall not be liable for additional compensation, if:

- (a) The number of persons enrolled for the package is smaller than the minimum number stated in the contract and the organiser notifies the tourist of the termination of the contract within the period fixed in the contract or within periods laid down by law; or
- (b) The organiser is prevented from performing the contract because of unavoidable and extraordinary circumstances and notifies the tourist of the termination of the contract without undue delay before the start of the package.

Article 9

Failure of performance or improper performance

Standard 9.1 States Parties shall take the necessary measures to ensure that the organiser is liable to the tourist for the performance of the obligations under the package travel contract irrespective of whether such obligations are to be performed by the organiser or by other tourism service providers. The organiser's liability should be without prejudice to the right to seek redress from third parties, including service providers. States Parties may maintain or introduce in their national law provisions under which the retailer is also responsible for the performance of the package.

Standard 9.2 States Parties shall take the necessary measures to ensure that the tourist informs the organiser without undue delay, taking into account the circumstances of the case, of any lack of conformity which he perceives during the performance of a tourism service included in the package travel contract.

Standard 9.3 If any of the tourism services are not performed in accordance with the package travel contract, the organiser shall remedy the lack of conformity, unless that:

- (a) Is impossible; or
- (b) Entails disproportionate costs, taking into account the extent of the lack of conformity and the value of the tourism services affected.

If the organiser does not remedy the lack of conformity Standards 9.8 and 9.9 mentioned below shall apply.

Standard 9.4 Without prejudice to the exceptions laid down in Standard 9.3, If the organiser does not remedy the lack of conformity within a reasonable period set by the tourist, the tourist may do so himself and request reimbursement of the necessary expenses.

Standard 9.5 Where a significant proportion of the services contracted are not provided as agreed, States Parties shall take the necessary measures to ensure that the organiser offers, at no extra cost to the tourist, suitable alternative arrangements for the continuation of the package, where possible, at an equivalent or higher quality than those specified in the contract, including where the tourists' return to the place of departure is not provided as agreed. Where the proposed alternative arrangements result in a package of lower quality than that specified in the package travel contract, the organiser shall grant the tourist an appropriate price reduction.

The tourist may reject the proposed alternative arrangements only if they are not comparable to what was agreed in the package travel contract or the price reduction granted is inadequate.

Standard 9.6 Where a lack of conformity substantially affects the performance of the package and the organiser has failed to remedy it within a reasonable period set by the tourist, the tourist may terminate the package travel contract without paying a termination fee and, where appropriate, request price reduction and/or compensation for damages.

If it is impossible to make alternative arrangements or the tourist rejects the proposed alternative arrangements, in accordance with the second paragraph of Standard 9.5, the tourist is, where appropriate, entitled to price reduction and/or compensation for damages without terminating the package travel contract.

If the package includes passenger transport, the organiser shall also provide repatriation of the tourist with equivalent passenger transport without undue delay and at no extra cost to the tourist.

Standard 9.7 States Parties shall take the necessary measures to ensure that the tourist is entitled to an appropriate price reduction for any period during which there was lack of conformity unless the organiser proves that the lack of conformity is attributable to the tourist.

Standard 9.8 States Parties shall take the necessary measures to ensure that the tourist is entitled to receive appropriate compensation from the organiser for any damage which the tourist sustains as a result of any lack of conformity, unless the lack of conformity is:

- (a) Attributable to the tourist;
- (b) Attributable to a third party unconnected with the services contracted, and is unforeseeable or unavoidable; or
- (c) Due to unavoidable and extraordinary circumstances;

Recommended Practice 9.1 In case of damages arising from the non-performance or improper performance of the services included in the package, States Parties should allow compensation to be limited in accordance with the international conventions governing such services.

Recommended Practice 9.2 In case of damages other than personal injury or damage caused intentionally or with negligence resulting from the non-performance or improper performance of the services included in the package, States Parties should allow compensation to be limited under the package travel contract. Such limitation should not be unreasonable.

Recommended Practice 9.3 States Parties should ensure that the tourist may address messages, requests or complaints in relation to the performance of the package directly to the retailer through which it was purchased. The retailer should forward those messages, requests or complaints to the organiser without undue delay.

For the purpose of compliance with time-limits or limitation periods, receipt of the messages, requests or complaints by the retailer shall be considered as receipt by the organiser.

Recommended Practice 9.4 States Parties should take the necessary measures to ensure that the tourist informs the local tourism service provider, without undue delay, of any lack of conformity which he perceives during the performance of a tourism service included in the package travel.

Article 10

Obligation to provide assistance

Standard 10.1 States Parties shall take the necessary measures to ensure that the organiser gives appropriate assistance without undue delay to the tourist in difficulty, including in unavoidable and extraordinary circumstances, in particular by:

- (a) Providing appropriate information on health services, local authorities and consular assistance; and
- (b) Assisting the tourist to make distance communications and helping the tourist to find alternative travel arrangements.

The organizer shall be able to charge a reasonable fee for such assistance if the difficulty is caused intentionally by the tourist or through the tourist's negligence. The fee shall not in any event exceed the actual costs incurred by the organizer.

Recommended Practice 10.1 States Parties should promote insurance schemes and guarantee systems which aim to cover the extra costs resulting from the unavoidable and extraordinary circumstances.

Recommended Practice 10.2 As long as it is impossible to ensure the traveller's return as agreed in the package travel contract because of unavoidable and extraordinary circumstances, the organiser should bear the cost of necessary accommodation, if possible of equivalent category. Each State Party should establish the maximum number of nights of accommodation which shall be borne by the organiser.

Article 11

Protection in the event of the insolvency of the organiser

Standard 11.1 States Parties shall take the necessary measures to ensure that the organiser established in their territory provides sufficient evidence of financial security for the refund of all payments made by or on behalf of tourists insofar as the relevant services are not performed as a consequence of the organiser's insolvency.

Standard 11.2 States Parties shall take the necessary measures to ensure that organisers not established in a State Party which sell or offer for sale packages in a State Party, or which by any means direct such activities to a State Party, shall be obliged to provide the financial security in accordance with the law of that State Party.

Standard 11.3 States Parties shall take the necessary measures to ensure that when the performance of the package is affected by the organiser's insolvency and passenger transport is part of the package travel contract, the security shall be available free of charge to ensure repatriations and, if necessary, the financing of accommodation prior to the repatriation.

Standard 11.4 An organiser's insolvency protection shall benefit tourists regardless of their place of residence, the place of departure or where the package is sold and

irrespective of the State Party where the entity in charge of the insolvency protection is located.

Standard 11.5 For tourism services that have not been performed, refunds shall be provided without undue delay after the tourist's request.

Recommended Practice 11.1 States Parties should designate central contact points to facilitate the administrative cooperation and supervision of organisers operating in different State Parties and should grant access to any available inventory list of organisers which are in compliance with their insolvency protection obligations and to all necessary information on their national insolvency protection requirements, which should be publicly accessible, including online, to other States Parties and to the UNWTO.

Article 12

Insolvency protection and information requirements for linked travel arrangements

Recommended Practice 12.1 States Parties should ensure that traders facilitating linked travel arrangements should provide security for the refund of all payments they receive from tourists insofar as a tourism service which is part of a linked travel arrangement is not performed as a consequence of their insolvency. If such traders are the party responsible for the passenger transport, the security shall also cover the tourist's repatriation.

Recommended Practice 12.2 Before the tourist is bound by any contract leading to the creation of a linked travel arrangement or any corresponding offer, the trader facilitating linked travel arrangements, including where the trader is not established in a State Party but, by any means, directs such activities to a State Party, should state in a clear, comprehensible and prominent manner that the tourist:

- (a) Will not benefit from any of the rights applying exclusively to packages under this Convention or under the relevant rules of a State Party and that each service provider will be solely responsible for the proper contractual performance of his service; and
- (b) Will benefit from insolvency protection in accordance with the above mentioned Recommended Practice 12.1.

Recommended Practice 12.3 Where a linked travel arrangement is the result of the conclusion of a contract between a tourist and a trader who does not facilitate the linked travel arrangement, that trader should inform the trader facilitating the linked travel arrangement of the conclusion of the relevant contract.

Annex III

Accommodation

Each State Party for which this Annex of the Convention is in force shall act in accordance with the mandatory standards and should give due consideration to the recommendations set out below.

Article 1

Definitions

Standard 1.1 For the purposes of this Annex, the following definitions shall apply:

(a) “**Accommodation service**” means the provision of accommodation against remuneration, typically on a daily or weekly basis, principally for short stay of tourists provided by different types of establishments.

(b) “**Accommodation service provider**” means the tourism service provider or the natural or legal person who sells or supplies standalone accommodation services; For the purpose of Articles 2, 3 and 5 of this Annex, intermediaries facilitating the provision of standalone accommodation services are considered accommodation services providers.

(c) “**Contract**” means the agreement linking the tourist to the accommodation service provider for the provision of a standalone accommodation service;

(d) “**Unavoidable and extraordinary circumstances**” means a situation beyond the control of the party who invokes such a situation and the consequences of which could not have been avoided even if all reasonable measures had been taken;

(e) “**Emergency situations**” means unusual, extraordinary or unforeseeable circumstances, whether natural or man-made, beyond the control of the host country, that have resulted in the need of assistance on a large scale;

Standard 1.2 A person travelling for purposes related to his/her trade, craft, business or profession (business traveller) is not considered as a tourist. Nevertheless, States Parties are entitled to apply the provisions stated in this Annex to business travellers.

Standard 1.3 This Annex exclusively applies to standalone accommodation services.

Article 2

Pre-contractual information obligations

Standard 2.1 States Parties shall take the necessary measures to ensure that, before the conclusion of the contract, the accommodation service provider provides the tourist in a clear and comprehensible manner with adequate information on:

- (a) The identity of the accommodation service provider, such as his trading name;
- (b) The geographical address at which it is established and its telephone number, and in the case of distance contracts, the fax number and the e-mail address, where available, to enable the tourists to contact the accommodation service provider quickly and efficiently and, where applicable, the geographical address and the identity of the accommodation service provider on whose behalf it is acting;
- (c) In the case of distance contracts, if different from the address provided in accordance with point (b) of this paragraph, the geographical address of the place of business of the accommodation service provider, and, where applicable, that of the accommodation service provider on whose behalf it is acting, where the tourist can address any complaints;
- (d) The main characteristics of the accommodation services to the extent appropriate medium;
- (e) Total price of the accommodation service inclusive of taxes, or when such taxes/charges cannot reasonably be calculated in advance, the fact that such taxes/charges may be payable;
- (f) The arrangements for payment, performance and the period during which the accommodation service provider undertakes to perform the service,
- (g) The complaint handling policy; and
- (h) Where the accommodation service provider grants a right of withdrawal, the conditions, time limit and procedures for exercising that right;

Recommended Practice 2.1 States Parties should take the necessary measures to ensure that, before the conclusion of contract, the accommodation service provider provides the tourist in any appropriate form with the following additional information:

- (a) The policy for the cancellation of the booking
- (b) In the case of distance contracts, where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the tourist at the request of the accommodation service provider;
- (c) In the case of distance contracts, where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the accommodation service provider is subject, and the methods for having access to it;
- (d) Where applicable, the official classification of the accommodation; and
- (e) Upon request, information on any limitation to accessibility for people with reduced mobility.

Article 3

Contractual information obligations

Standard 3.1 States Parties shall take the necessary measures to ensure that the information referred to in the above mentioned Standard 2.1 of Article 2 shall form an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.

Recommended Practice 3.1 The contract should include, in addition to elements referred to in Standard 3.1 above, the following additional elements:

- (a) The identity of the accommodation service provider and the tourist;
- (b) Times for the check-in and check-out;
- (c) General terms and conditions;
- (d) The cancellation policy
- (e) Upon request, ancillary services; and
- (f) Other provisions provided for under mutual agreement.

Article 4

Failure of performance or improper performance

Standard 4.1 States Parties shall take the necessary measures to ensure that the accommodation service provider is liable to the tourist for the proper performance of the obligations under the contract.

Standard 4.2 Where prior to the arrival of the tourist the accommodation service provider is aware that it will be unable to fulfil its obligations under the contract, the tourist shall be informed of this situation without delay and of any right to cancellation without penalty. The financial consequences of such failure on the contract with the tourist, in particular on possible compensations, shall be determined by the national contract law of the State Parties applicable in each case.

Recommended Practice 4.1 Where at the arrival of the tourist the accommodation service provider is not able to provide the services contracted, States Parties should take the necessary measures to ensure that the accommodation service provider provides the tourist, at no extra cost, with at least equivalent level of accommodation together with the means of transport to the new accommodation. The financial consequences of such failure on the contract with the tourist, in particular on possible compensations, should be determined by the national contract law applicable in each case.

Recommended Practice 4.2 States Parties should take the necessary measures to ensure that a commercial practice shall be regarded as misleading, and therefore prohibited if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average tourist and causes or is likely to cause him to take a transactional decision that he would not have taken otherwise.

Article 5

Assistance obligation in case of unavoidable and extraordinary circumstances or emergency situations

Recommended Practice 5.1 States Parties should take the necessary measures to ensure that in case of unavoidable and extraordinary circumstances or emergency situations the accommodation service provider cooperates with the relevant authorities of the tourists' country of origin and of the host country, providing whenever possible:

- (a) Information concerning the tourist's identity and location;
- (b) The consequences of the unavoidable and extraordinary circumstances or the emergency situation on the provision of accommodation service by the provider;
- (c) Information of how aid might be offered;
- (d) Information on state of health and well-being of the tourists; and
- (e) Information on how tourists might be contacted and removed from danger and repatriated.

Recommended Practice 5.2 States Parties should take the necessary measures to ensure that in case of unavoidable and extraordinary circumstances or emergency situations, the accommodation service provider displays fair and ethical behaviour and should not increase the room rates for the sole reason of the unavoidable and extraordinary circumstances or the emergency situation for the extra nights spent by the tourists.

Recommended Practice 5.3 States Parties should take the necessary measures to ensure that in case of unavoidable and extraordinary circumstances or emergency situations jeopardising the performance of the contract, either by preventing the tourist from physically reaching the place where the accommodation service is to be provided, or by preventing the accommodation service provider from fulfilling its contractual obligations, the accommodation service provider does not request cancellation fees.

Recommended Practice 5.4 The possible consequences of unavoidable and extraordinary circumstances on the contract with the tourist, in particular on reimbursement or cancellation, should be determined by the national contract law applicable in each case.