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GENERAL AFFAIRS AND POLICY

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RAPPORT DU CONSEIL SUR LES AFFAIRES GÉNÉRALES ET LA POLITIQUE DE LA CONFÉRENCE DU 17 AU 20 AVRIL 2012

établi par le Bureau Permanent

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REPORT OF THE COUNCIL ON GENERAL AFFAIRS AND POLICY OF THE CONFERENCE OF 17 TO 20 APRIL 2012

drawn up by the Permanent Bureau

Document préliminaire No 1 de juillet 2012 à l'attention du Conseil d'avril 2013 sur les affaires générales et la politique de la Conférence

Preliminary Document No 1 of July 2012 for the attention of the Council of April 2013 on General Affairs and Policy of the Conference

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RAPPORT DU CONSEIL SUR LES AFFAIRES GÉNÉRALES ET LA POLITIQUE DE LA CONFÉRENCE DU 17 AU 20 AVRIL 2012

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CONCLUSIONS ET RECOMMANDATIONS ADOPTÉES PAR LE CONSEIL /

CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE COUNCIL

CONCLUSIONS AND RECOMMENDATIONS

ADOPTED BY THE COUNCIL

Review of activities of the Conference

1. The Council welcomed the activities of the Conference carried out by the Permanent Bureau since the last Council meeting (5-7 April 2011).

Ceremonies for signing and ratifying of certain Hague Conventions

2. The Council witnessed the deposit by the Ambassador of the Czech Republic of the instrument of ratification of the *Convention of 13 January 2000 on the International Protection of Adults*; and the signing by the Ambassador of Serbia of the *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations*.

Current work

Choice of Law in International Contracts

3. The Council welcomed the work undertaken by the Working Group, notably the "Draft Hague Principles on Choice of Law in International Commercial Contracts" as well as the accompanying Report and the Policy Document prepared by the Working Group.

4. The Council decided to establish a Special Commission to discuss the proposals of the Working Group and make recommendations as to future steps to be undertaken, including the decision to be taken on the form of the non-binding instrument and the process through which the commentary shall be completed. The Special Commission shall be convened before the end of 2012.

Special Commission on the practical operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention

5. The Council welcomed the successful outcome of Parts I and II of the Sixth Meeting of the Special Commission on the practical operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention and took note of the Conclusions and Recommendations of the Special Commission.

6. The Council decided to establish a Working Group, composed of a broad range of experts, including judges, Central Authorities and cross-disciplinary experts, to develop a Guide to Good Practice on the interpretation and application of Article 13(1) *b)* of the 1980 Child Abduction Convention, with a component to provide guidance specifically directed to judicial authorities.

7. The Council also decided to establish an Experts' Group to carry out further exploratory research on cross-border recognition and enforcement of agreements reached in the course of international child disputes, including those reached through mediation, taking into account the implementation and use of the 1996 Convention. Such work shall comprise the identification of the nature and extent of the legal and practical problems, including jurisdictional issues, and evaluation of the benefit of a new instrument, whether binding or non-binding, in this area.

8. The Council supported the further work and acknowledged that should there be a need to prioritise resources, work on the Guide to Good Practice would receive preference.

Working Party on Mediation in the context of the Malta Process

9. The Council welcomed the Report of the Working Party on Mediation in the context of the Malta Process, as presented by the Co-Chairs, Justice Jillani of Pakistan and Mr William

Crosbie of Canada, as well as the direction for future work outlined by the Co-Chairs. The Council agreed that the Working Party continue its work on the implementation of mediation structures, with the expectation of a further report on progress to the Council in 2013.

Governance of the Conference

10. The Council agreed that there was a need to clarify the procedure for appointing the Chairs and Vice-Chairs of the organs of the Conference, and accordingly decided to amend the Rules of Procedure (see Annex).

Future succession of the Secretary General

11. The Council noted that the Secretary General will reach the age of retirement in April 2013. The Council supported the procedure for the succession as presented by the Chair of the Council. Accordingly, the Council decided to establish a Selection Committee, which seeks to represent different parts of the world, also taking into account other criteria, to conduct the selection process with a view to presenting the candidate to the Netherlands Standing Government Committee on Private International Law by the end of January 2013. The Selection Committee shall:

a) draft a profile of the ideal candidate and circulate it to Members for comments;

b) have a vacancy announcement widely publicised;

c) receive and assess the applications;

d) interview candidates insofar as necessary;

e) select by consensus the most qualified candidate, inform the Council about the selected candidate, and present him / her to the Standing Government Committee.

The term of office shall be a renewable five-year term.

Direction of the work of the Conference relating to technical assistance

12. The Council mandated a Working Group to develop a strategic framework for technical assistance and post-Convention services provided by the Conference and to make recommendations to the Council in this regard. In light of the Conference's mandate and the directions set out in the Organisation's Strategic Plan, the strategic framework should address the following:

a) the nature and extent of such technical assistance and post-Convention services;

b) the short, medium and long-term strategic objectives;

c) selection criteria;

d) prioritisation criteria;

e) effectiveness assessment indicators; and

f) financing matters directly pertaining to the above elements.

13. The Council accepted the Chair's proposal that the Working Group would be composed of the following Members: Argentina, Australia, Canada, China, France, Germany, India, Japan, the Netherlands, the Russian Federation, South Africa, Spain, Switzerland, and the United States of America. The Council agreed that longer term funding issues must be discussed as a second step.

Proposal to establish an Asia Pacific Regional Office for the Hague Conference on Private International Law in the Hong Kong Special Administrative Region of the People's Republic of China

14. The Council warmly endorsed the proposal to establish an Asia Pacific Regional Office for the Hague Conference on Private International Law in the Hong Kong Special Administrative Region of the People's Republic of China. The Council noted with gratitude that funding for the Office's operation was now ensured for an initial period of three years. The future directions and the question of the financial sustainability of the Office beyond this initial period will be decided by Council in light of a comprehensive evaluation.

Future work

Accessing the content of foreign law and the need for the development of a global instrument in this area

15. The Council took note of the Conclusions and Recommendations of the European Commission – Hague Conference Joint Conference on Access to Foreign Law in Civil and Commercial Matters held in Brussels, Belgium in February 2012. The Council decided that the Permanent Bureau should continue monitoring developments but not take any further steps in this area at this point.

Continuation of the Judgments Project

16. The Council welcomed the exploratory work conducted by the Experts' Group and its Conclusions and Recommendations on possible future work.

17. The Council acknowledged that in working towards a future instrument, it will be important to begin by working on an agreed core of essential provisions. Consistent with that acknowledgement, the Council decided to establish a Working Group whose initial task shall be to prepare proposals for consideration by a Special Commission in relation to provisions for inclusion in a future instrument relating to recognition and enforcement of judgments, including jurisdictional filters.

18. The Council acknowledged that the desirability and feasibility of making provisions in relation to matters of jurisdiction (including parallel proceedings) in this or another future instrument require further study and discussion. The Council invited the Experts' Group to reconvene in order to consider and make recommendations on these matters.

19. The Permanent Bureau will report regularly to the Council on progress on this work, which will maintain oversight of the work.

The application of certain private international law techniques to aspects of international migration

20. The Council accepted that the Permanent Bureau would continue to explore, in consultation with interested Members and relevant international organisations, the potential value of using certain private international law techniques in the context of international migration.

Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements

21. The Council welcomed the preliminary report drawn up by the Permanent Bureau and mandated that the Permanent Bureau continue the current work under the 2011 Council mandate and further prepare and distribute a Questionnaire in order to obtain more detailed information regarding the extent and nature of the private international law issues being encountered in relation to international surrogacy arrangements, as well as in relation to legal parentage or "*filiation*" more broadly. The Questionnaire shall seek views on the needs to be

addressed and approaches to be taken. The Permanent Bureau is invited to present its final Report to the Council in 2014.

Recognition and enforcement of foreign civil protection orders: A Preliminary Note

22. The Council decided that the Permanent Bureau should circulate a Questionnaire to Members in order to assess the need and feasibility of an instrument in this area, and to obtain further information on existing legislation. The Permanent Bureau shall report to the Council in 2013.

Other topics

23. The Council invited the Permanent Bureau to continue to follow developments in the following areas:

a) questions of private international law raised by the information society, including electronic commerce, e-justice and data protection;

b) jurisdiction, and recognition and enforcement of decisions in matters of succession upon death;

c) jurisdiction, applicable law, and recognition and enforcement of judgments in respect of unmarried couples;

d) conflict of laws issues relating to the enforceability of close-out netting provisions, taking into account in particular the work undertaken by other international organisations.

24. The Council decided to delete from the Agenda of the Conference the topics dealing with the assessment and analysis of transnational legal issues relating to indirectly held securities and security interests.

Post-Convention services and activities

25. The Council welcomed the preparatory work in relation to the meeting in November 2012 of the Special Commission on the practical operation of the Apostille Convention, in particular the completion of a *Draft Handbook on the Practical Operation of the Apostille Convention*. The Council welcomed the developments in the field of the electronic Apostille Program (e-APP).

26. The Council agreed that work be undertaken with a view to preparing the next Special Commission on the practical operation of the Service and Evidence Conventions. The timing of this Special Commission meeting, as well as the possible inclusion of the review of the Access to Justice Convention on its agenda, will be decided by the Council in 2013.

27. The Council noted the endorsement of the *Emerging Guidance and General Principles for Judicial Communications* by the Sixth Meeting of the Special Commission on the practical operation of the 1980 and 1996 Conventions (Part I) and invited their wide dissemination.

28. In relation to the 1993 Intercountry Adoption Convention, the Council noted the significant progress made on *Accreditation and adoption accredited bodies: general principles and Guide to Good Practice* as well as the preparations for the informal Experts' Group on financial aspects of intercountry adoption. The Council noted the importance of technical assistance in relation to the implementation of the 1993 Intercountry Adoption Convention and the lack of funding to continue the position of the Adoption Technical Assistance Programme Coordinator.

29. The Council welcomed the achievements of the Permanent Bureau in the areas of education, training and technical assistance in relation to the Hague Conventions.

Annex

Amendments of Article 5A of the Rules of Procedure of the Hague Conference

Article 5A – Chairs and Vice-Chairs

I. Diplomatic Sessions

Chair and Vice-Chairs

1. a. Plenary meetings of the Diplomatic Sessions shall be chaired by the Chair of the Netherlands Standing Government Committee (Art. 4(5) of the Statute).
   b. The plenary meeting shall, upon the proposal of the Chair, elect one or more Vice-Chairs of the Diplomatic Session as well as the Chairs of the Commissions of the Session.
   c. During Diplomatic Sessions, the Council on General Affairs and Policy shall sit as the Session's Commission on General Affairs and Policy.

The Bureau

2. a. The Chair, the Vice-Chairs, and the Chairs of the Commissions, shall, together with the *Rapporteurs* and Chairs of Drafting Committees, constitute its Bureau.
   b. The Bureau shall assist the Chair of the Diplomatic Session in conducting the meeting.

II. Council of Diplomatic Representatives

3. The Council of Diplomatic Representatives shall be chaired by the Minister of Foreign Affairs of the Kingdom of the Netherlands (Art. 10(3) of the Statute).

III. Council on General Affairs and Policy

Chair and Vice-Chair

4. a. The Council on General Affairs and Policy (Art. 4(1) of the Statute – hereinafter: the Council) shall be chaired by a delegate or expert of a Member elected by the plenary meeting of the Diplomatic Sessions or, in the interval between Diplomatic Sessions, by the Council, in either case upon the proposal of the Chair of the Diplomatic Session.
   b. The Council shall, upon the proposal of its Chair, elect one Vice-Chair. The Chair and the Vice-Chair shall be drawn from different geographic regions.
   c. The Vice-Chair shall assist the Chair in conducting and preparing the meetings of the Council, ensuring continuity between its meetings as necessary, and executing other specific tasks delegated by the Council.

Terms of office

5. a. The term of office of the Chair and the Vice-Chair of the Council is from one Diplomatic Session to the next, with a maximum of four years.
   b. The term of office may be renewed.
   c. Officials elected by the Council to replace the Chair, or the Vice-Chair, shall complete their predecessor's term.

IV. Special Commissions

6. a. Special Commissions (Art. 8 of the Statute) shall be chaired by an expert of a Member elected by the Special Commission upon the proposal of the Chair of the Diplomatic Session.
   b. The Special Commission shall, upon the proposal of the Chair of the Special Commission, elect one or more Vice-Chairs.
   c. The Chair and Vice-Chairs of the Special Commission shall constitute its Bureau.
   d. The Bureau shall assist the Chair in conducting the Special Commission.

ORDRE DU JOUR / AGENDA

AGENDA

MEETING OF THE COUNCIL
ON GENERAL AFFAIRS AND POLICY OF THE CONFERENCE
(17–20 April 2012)

The draft agenda will be treated with some flexibility and may need to be modified in the light of continuing discussions in the Council meeting, in particular concerning the items under future work.

Sessions will normally begin at 9.30 a.m. and end at 6.00 p.m., except for the final day (closure at 1.00 p.m. at the latest). Breaks for coffee will normally be from 11.00 to 11.15 a.m., lunch from 1.00 to 2.30 p.m. and tea from 4.00 to 4.15 p.m.

The discussions on Items III and IV of the draft agenda will be open to Members of the Conference only.

Tuesday 17 April 2012, 9.30 a.m.

I. Short overview of activities since the previous Council meeting (5–7 April 2011)

See Annual Report 2011 – also available on the Hague Conference website < www.hcch.net > under "Publications" – to be completed by oral remarks on work accomplished during the first quarter of 2012. Additional oral comments on the implementation of the Strategic Plan (Final Act, Nineteenth Session, 2002, Part B, Recommendation No 2)

II. Current work

See "Work programme of the Permanent Bureau for the next Financial Year (1 July 2012 – 30 June 2013)", Preliminary Document No 2 – Update prepared by the Permanent Bureau

1. Choice of Law in International Contracts
   See "Choice of law in international contracts: development process of the draft Instrument and future planning", Preliminary Document No 4

2. Report on the Special Commission – Parts I (June 2011) and II (January 2012) – on the practical operation of the 1980 Child Abduction Convention and 1996 Child Protection Convention

3. Preparation of the next Special Commission meeting on the 1961 Apostille Convention (6-9 November 2012)

III. Governance of the Conference and strategic issues

1. Procedure for the future succession of the Secretary General
   See "Future succession of the Secretary General", Preliminary Document No 13, prepared by the Chair of the Council on General Affairs and Policy

2. Continuation of the discussion on the Report, Conclusions and Recommendations of the open-ended Working Group meeting of Members held from 2 to 3 December 2010, in particular on organisation and working methods
See Preliminary Document No 5 of March 2011, "Report of the meeting of the open-ended Working Group of Members"; see also Working Document No 2 of 7 April 2011, submitted by the Chair, with excerpt of Report of Meeting No 5 (Annex B)

3. Report, Conclusions and Recommendations of the open-ended Working Group on technical assistance (17-18 November 2011)
See "Report on the meeting of the Technical Assistance Working Group (17-18 November 2011)", Preliminary Document No 3; see also "Discussion paper on the future of Hague Conference judicial training and technical assistance programmes", Information Document No 4

[To be continued on Wednesday morning, 18 April 2012]

6.00 p.m. Reception hosted by the Permanent Bureau in the foyer of the Academy Building in honour of William Duncan (who retired on 30 June 2011) and Jennifer Degeling (who is resigning from the Permanent Bureau as of 30 April 2012)

Wednesday 18 April 2012

IV. Governance of the Conference and strategic issues (*continuation of the discussion of Tuesday 17 April 2012)*

V. Future work: new topics

Under this heading there will be a discussion of any new topics which have been, or may be, suggested by the Members, the international organisations or the Permanent Bureau. See "Work programme of the Permanent Bureau for the next Financial Year (1 July 2012 – 30 June 2013)", *Preliminary Document No 2 – Update prepared by the Permanent Bureau, with comments on some of the topics below*

1. Desirability and feasibility of future work relating to the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and to the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*

2. Accessing the content of foreign law and the need for the development of a global instrument in this area
See "Conclusions and Recommendations of the Joint Conference of the European Commission – Hague Conference on Access to Foreign Law in Civil and Commercial Matters, 15-17 February 2012, Brussels, Belgium", Information Document No 10

3. Continuation of the Judgments Project
See "Ongoing work on international litigation and possible continuation of the Judgments Project", Preliminary Document No 5

4. The application of certain private international law techniques to aspects of international migration

5. Private international law issues surrounding the status of children (excluding adoption), in particular the recognition of parent-child relationships (*filiation*), and concerning international surrogacy arrangements
See "Projects concerning the Children's Conventions, maintenance, adults, cohabitation, status of children and international family relocation – Planning for 2012-2013", Preliminary Document No 6, and "A Preliminary Report on the issues arising from international surrogacy arrangements", Preliminary Document No 10

6. The recognition of foreign civil protection orders
See "Recognition and enforcement of foreign civil protection orders: a preliminary note", Preliminary Document No 7

7. Other topics retained by the Council on the Conference's Agenda:

   a) questions of private international law raised by the information society, including electronic commerce, e-justice and data protection

   b) jurisdiction, and recognition and enforcement of decisions in matters of succession upon death

   c) jurisdiction, applicable law, and recognition and enforcement of judgments in respect of unmarried couples

   d) assessment and analysis of transnational legal issues relating to indirectly held securities and security interests, taking into account in particular the work undertaken by other international organisations

[To be continued on Thursday morning, 19 April 2012]

12.00 p.m. Signatures, deposits of instruments of ratification, acceptance or approval of and accession to any Hague Conventions

VI. Round table on progress made concerning the signature and ratification of and accession to Hague Conventions

Under this heading Members will be invited to report on any progress with a view to signing, ratifying or acceding to the following Hague Conventions:

1. The Conventions adopted since the Eighteenth Session (1996):

   a) *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*
   b) *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations*
   c) *Convention of 30 June 2005 on Choice of Court Agreements*
   d) *Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary*
   e) *Convention of 13 January 2000 on the International Protection of Adults* and
   f) *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*

2. Conventions adopted at earlier Diplomatic Sessions:

   g) *Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions*
   h) *Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition*

Thursday 19 April 2012

VII. Support, monitoring, and adaptation of Conventions

A. Legal co-operation and litigation

1. Follow up on the Special Commission of 2 to 12 February 2009
   See "Task list and status of implementation of Conclusions and Recommendations adopted by the Special Commission on the practical operation of the Hague Apostille, Service, Taking of Evidence and Access to Justice Conventions (2-12 February 2009) – Update No 2", *Preliminary Document No 11*

2. The e-APP Project (electronic Apostille Project)
   See "Conclusions and Recommendations of the Commemoration of the 50th Anniversary of the Apostille Convention and Third Regional Meeting on the e-APP for Europe Project, 4-5 October 2011, Paris, France", Information Document No 8

B. International protection of children, vulnerable adults, international family and family property relations – remaining issues not discussed under previous items

1. Judicial networking and direct judicial communications

2. Follow-up on the Special Commission of June 2010 on the practical operation of the 1993 Convention (including progress in relation to Guides to Good Practice)

C. Regional activities, International Centre for Judicial Studies and Technical Assistance – remaining issues not discussed under previous items

1. Regional programmes and regional offices
   See "Proposal to establish an Asia Pacific Regional Office for the Hague Conference on Private International Law in the Hong Kong Special Administrative Region of the People's Republic of China", Information Document No 2

2. Achievements, current developments, and future work programme 2012-2014 of the Centre

3. Funding of the Centre and its activities

VIII. Future work (cont'd)

IX. Information on budgetary and funding matters

1. Oral report on the work of the Pensions / Building Working Group
   See "Note on the 'New Pension Scheme'", Information Document No 6, and "Additional information on the three scenarios for the building at Scheveningseweg 6 (current value of the building and other options for housing the Permanent Bureau)", Information Document No 7

2. Proposed Budget for Financial Year LVIII (1 July 2012 – 30 June 2013)
   See "Draft Budget for Financial Year LVIII (1 July 2012 – 30 June 2013) and Explanatory Notes", Preliminary Document No 8

3. Supplementary Budget for Financial Years LVIII-LX (1 July 2012 – 30 June 2015)

   – Part I: Special Projects and Expenses
     See "Financial Years LVIII-LX (1 July 2012 - 30 June 2015) and Explanatory Notes (Part I)", Preliminary Document No 9 A

   – Part II: International Centre for Judicial Studies and Technical Assistance
     See "Financial Years LVIII-LX (1 July 2012 - 30 June 2015) and Explanatory Notes (Part II)", Preliminary Document No 9 B

Friday 20 April 2012

X. Co-operation with other international organisations

1. Co-operation with UNCITRAL, UNIDROIT, UNICEF and other global organisations
   See "Overview of Conventions and other instruments drawn up under the auspices of UNCITRAL, UNIDROIT and the Hague Conference on Private International Law", Information Document No 1

2. Co-operation with the European Union and other regional organisations

XI. Conclusions and Recommendations

The meeting will end by 1.00 p.m. at the latest.

Annex A

Topics informally suggested to the Permanent Bureau[1]

- development of a practical guide on comparative private international law (on a country-by-country or subject-by-subject basis);
- development of model bilateral agreements to facilitate the implementation of (multilateral) Hague Conventions;
- questions of private international law in relation to intellectual property issues;
- the international recovery of assets relevant to criminal law enforcement as well as to ordinary claims, and which is related to aspects of provisional and protective measures;
- conventions (or model laws) on the law applicable to specific contracts (barter transactions; trading in futures on a stock exchange);
- cross-border regulatory issues: how to preserve, through international co-operation and mutual enforcement, the integrity of the growing variety of regulatory systems in a converging world;
- feasibility study on the provision of enhanced legal assistance in particular for categories of cases such as small and / or uncontested claims (suggestion by the Special Commission of 2–12 February 2009).[2]

[1] See Prel. Doc. No 20 of March 2002 for the attention of the Nineteenth Session: "Observations concerning the strategy of the Hague Conference in reply to the Secretary General's letter of 30 / 31 July 2001" (topics already previously mentioned in the agenda have been omitted).
[2] Referred to Annex A by the Council on General Affairs and Policy of March - April 2009.

Annex B

Council on General Affairs and Policy of the Conference (5–7 April 2011)

WORK. DOC. No 2 E

Distribution: 7 April 2011

Submitted by the Chair[1]

Chairs and Vice-Chairs
Draft proposals for inclusion (as Art. 5A)
in the Rules of Procedure of the Hague Conference

Article 5A – Chairs and Vice-Chairs

I. Diplomatic Sessions

Chair and Vice-Chairs

1. a. Plenary meetings of the Diplomatic Sessions shall be chaired by the Chair of the Netherlands Standing Government Committee (Art. 4(5) of the Statute).
   b. The plenary meeting shall, upon the proposal of the Chair, elect one or more Vice-Chairs of the Diplomatic Session as well as the Chairs of the Commissions of the Session.
   c. During Diplomatic Sessions, the Council on General Affairs and Policy shall sit as the Session's Commission on General Affairs and Policy.

The Bureau

2. a. The Chair, the Vice-Chairs, and the Chairs of the Commissions, shall, together with the *Rapporteurs* and Chairs of Drafting Committees, constitute its Bureau.
   b. The Bureau shall assist the Chair of the Diplomatic Session in conducting the meeting.

II. Council of Diplomatic Representatives

3. The Council of Diplomatic Representatives shall be chaired by the Minister of Foreign Affairs of the Kingdom of the Netherlands (Art. 10(3) of the Statute).[2]

[1] Updated version of Work. Doc. No 1, distributed on 6 April 2011.
[2] See the Regulations on Budgetary Matters adopted on 4 November 1994.

III. Council on General Affairs and Policy

Chair and Vice-Chairs

4. a. The Council on General Affairs and Policy (Art. 4(1) of the Statute – hereinafter: the Council) shall be chaired by a delegate or expert of a Member elected by the plenary meeting of the Diplomatic Sessions or, in the interval between Diplomatic Sessions, by the Council, in either case upon the proposal of the Chair of the Diplomatic Session.
   b. The Council shall, upon the proposal of its Chair, elect one [or more] Vice-Chair[s]. [The Chair and the Vice-Chair[s] shall be drawn from different geographic regions.] [The Chair and the Vice-Chair[s] may not be succeeded by a Chair or by [a] Vice-Chair[s] from the same region.]
   c. The Vice-Chair[s] shall assist the Chair in conducting and preparing the meetings of the Council, ensuring continuity between its meetings as necessary, and executing other specific tasks delegated by the Council.

Terms of office

5. a. The term of office of the Chair and Vice-Chair[s] of the Council is from one Diplomatic Session to the next, with a maximum of four years.

Alternative wording

[5. a. The term of office of the Chair of the Council is from one Diplomatic Session to the next Session, with a maximum of four years. The maximum term of office of the Vice-Chair[s] is two years.]

   b. The term of office may be renewed.
   c. Officials elected by the Council to replace the Chair, or [a] Vice-Chair[s], shall complete their predecessor's term.

IV. Special Commissions

6. a. Special Commissions (Art. 8 of the Statute) shall be chaired by an expert of a Member elected by the Special Commission upon the proposal of the Chair of the Diplomatic Session.
   b. The Special Commission shall, upon the proposal of the Chair of the Special Commission, elect one or more Vice-Chairs.
   c. The Chair and Vice-Chairs of the Special Commission shall constitute its Bureau.
   d. The Bureau shall assist the Chair in conducting the Special Commission.

Excerpt of Report of Meeting No 5 [of Council 2011]

XII. Conclusions

Current work

Governance of the Council

The Chair referred to Work Document No 3 on draft Conclusions and Recommendations and recalled that no consensus had been reached earlier on paragraph 11 nor the related proposal to insert a new Article 5A into the Rules of Procedure of the Hague Conference (as set out in Work Document No 2). Moving forward, two situations are foreseeable; either consensus is reached, or no consensus is reached and the issue is back on the agenda for the 2012 Council. He hoped that a consensus would be reached, as evolution is needed, and the vast majority of experts at the earlier session were in favour of the election of a single Vice-Chair.

A number of experts recalled that they preferred for a single Vice-Chair to be elected, and thus the bracketed text in the first sentence of paragraph 4 *b)* of draft Article 5A should be deleted. This would enhance transparency at the same time as avoiding bureaucracy. The Chair and the Vice-Chair would need to be neutral and act in the interest of the Members of the Conference. The question of engagement would also need to be addressed in this debate as the two issues are inextricably linked.

Some experts nevertheless supported the idea of maintaining flexibility and expressed no preference on the number of Vice-Chairs to be elected. Accordingly, the bracketed text in the first sentence of paragraph 4 *b)* should be retained.

One expert considered that the second sentence of paragraph 4 *b)* is unnecessary. However, several experts considered it important to specify that "the Chair and the Vice-Chair[s] shall be drawn from different geographic regions" but queried how the different regions should be defined.

Certain experts indicated their preference for this debate to be deferred until 2012, using Work Document No 2 and Preliminary Document No 5 as a basis for future discussions. A cautious approach is preferred and more time is needed to examine this question which relates to issues of governance, transparency and engagement.

One expert expressed opposition to the idea of deferring discussions due to the risk that time will be lost in conducting long and difficult debates.

Another expert considered that these issues should be addressed during intermediate meetings which could be convened between Council meetings.

The Chair concluded the debate by noting that in the absence of consensus on this issue, paragraph 11 would be deleted from the draft Conclusions and Recommendations.[3]

[3] Para. 11 of the draft Conclusions and Recommendations read as follows: "[The Council agreed that there was a need to clarify the procedure for appointing the Chair and Vice-Chair(s) of the Council and other organs of the Conference, and accordingly decided to amend the Rules of Procedure (see Annex).]" The Annex referred to in the quoted text is not reproduced here.