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PROGRAMME DE TRAVAIL REFLÉTANT LES CONCLUSIONS ET RECOMMANDATIONS ADOPTÉES LORS DES DERNIÈRES RÉUNIONS DES COMMISSIONS SPÉCIALES SUR LE FONCTIONNEMENT PRATIQUE DES CONVENTIONS EN MATIÈRE D'ENTRAIDE JUDICIAIRE ET ADMINISTRATIVE ET ÉTAT DE MISE EN ŒUVRE

établi par le Bureau Permanent

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WORK PROGRAMME RESULTING FROM THE CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY RECENT SPECIAL COMMISSION MEETINGS ON THE PRACTICAL OPERATION OF THE LEGAL CO-OPERATION CONVENTIONS AND STATUS OF IMPLEMENTATION

drawn up by the Permanent Bureau

Document préliminaire 9 de mars 2013 à l'attention du Conseil d'avril 2013 sur les affaires générales et la politique de la Conférence

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EXPLANATION

The purpose of this document is to provide the Council on General Affairs and Policy of the Conference with an update of the work programme resulting from the Conclusions and Recommendations (C&R) adopted by the two most recent Special Commission meetings in the area of legal co-operation, namely:

- the *2009 meeting of the Special Commission on the practical operation of the Apostille, Service, Evidence and Access to Justice Conventions* (2009 SC)[1]; and
- the *2012 meeting of the Special Commission on the practical operation of the Apostille Convention* (2012 SC).[2]

A task list and status of implementation of the C&R adopted by the 2009 SC was first presented to Council in 2010 (Prel. Doc. No 15 for the attention of the Council of 2010). In the years that followed, two updates of that document were presented (Prel. Doc. Nos 13 and 11 for the attention of the Council of 2011 and 2012, respectively).

With regard to the Apostille Convention, considering that the Permanent Bureau (PB) has completed all the tasks relating to the Apostille Convention, assigned to it by the 2009 SC (see C&R No 6 *b*) of the 2012 SC), the chart below only sets out tasks related to the C&R adopted at the 2012 SC.

Part I of the chart reflects the most important C&R that require specific action on the part of the PB, and the general status of their implementation. It is divided in two sections: the first refers to C&R relating to the Service, Evidence and Access to Justice Conventions; the second refers to C&R relating to the Apostille Convention. Tasks that were reported to the Council as completed in the 2012 update are no longer included. Unless otherwise specified, these tasks are being completed by the Deputy Secretary General (DSG) as part of his overall responsibilities with the assistance of two Legal Officers (1.6 FTE). The tasks reflected in Part I form the basis of the ongoing post-Convention work of the PB in area of legal co-operation (see paras 23 *et seq.* of Prel. Doc. No 2). However, the chart does not reflect all work being conducted by the DSG and these Legal Officers (*e.g.*, other work relating to judicial and administrative co-operation, work in the areas of finance law, commercial law, and litigation, or indeed general administration matters conducted by the DSG).

Part II of the chart reflects the most important C&R that require specific action on the part of the *Contracting States*.

[1] The C&R of the 2009 SC were presented to Council as Prel. Doc. No 4 for the attention of the Council of March / April 2009.
[2] The C&R of the 2012 SC are presented to Council as Prel. Doc. No 5 for the attention of the Council of April 2013.

Part I: Conclusions and Recommendations requiring specific action on the part of the PB

Service, Evidence and Access to Justice Conventions

C&R (2009 SC)	Description	Conv	Status / resources
Special Commissions (SC)			
N/A	Prepare an SC on the Service and Evidence Conventions (and possibly Access to Justice Convention)	E, S (AtJ)	• Preparations for the next Special Commission have started. The PB proposes that the Special Commission be held, if possible, in the first half of 2014 and that the Access to Justice Convention be included on the agenda of the meeting (see Prel. Doc. No 2 for the attention of the Council of 2013). • Preparation of a brief questionnaire will start soon. The brief questionnaire will in essence: (1) invite new ratifying/acceding States to share their experiences in joining the Conventions; and (2) invite all Contracting States to the Conventions to provide statistics on the operation, submit any updates of the practical information currently appearing on the website, identify any issues that should be addressed by the PB in preparation for the meeting, and evaluate the operation of the Conventions. The PB will analyse and synthesise responses to the brief questionnaire prior to the Special Commission meeting. • Work on the Practical Handbook (which will be presented as a preliminary document to the SC) has started (see below). • Work on an updated, fourth edition of the Service Handbook has started (see below); this Handbook will also be presented as a preliminary document to the SC.
Handbooks (HB) / Guides / Brochures / Guidelines			
58	Prepare a new edition of the practical Handbook (HB) on the Operation of the Evidence Convention	E	• Work on the Evidence HB has started. The HB will include substantial comments on all major aspects of the Convention, incl. the use of video-link technologies; FAQs and explanatory charts will also be added. • The HB is being developed by the PB with the assistance of Mr William Fritzlen, Attorney Adviser at the Department of State, USA (on flexible, part-time secondment), and Mr Patrick Gingras, Lawyer and Trademark Agent at the Department of Justice of Quebec (within the framework of the agreement concluded between the Department of Justice of Quebec and the Hague Conference).

C&R (2009 SC)	Description	Conv	Status / resources
			• The PB plans to submit the draft HB to a group of experts designated by Member States and non-Member Contracting States, which is tentatively scheduled to take place in The Hague during the fourth quarter of 2013. • A revised draft will be circulated to Members and non-Member Contracting States for comment prior to the next SC (see above); the SC will be asked to endorse the HB.
58	Develop Guide to Good Practice on use of video-link technologies to assist in taking of evidence abroad under the Convention	E	• Survey of national and regional law and practice and literature review is ongoing. • A section on taking of evidence by video-link will be included in the new edition of the Evidence HB (see above).
41	Prepare revised (updated) edition of Service HB	S	• Relevant developments are being monitored, in particular new case law. Comments on the use of modern technology (incl. e-service) will be expanded. • Updating of current edition (published in 2006) has started and is ongoing (in English only for the time being).
30	Prepare guidelines for the completion of the Model Form	S	This will be addressed in the updated edition of the Service HB.
39	Follow and study impact of modern technologies on Service Convention (in particular electronic transmission and electronic execution of requests for service presented under the Convention)	S	This will be addressed in the updated edition of Service HB.

C&R (2009 SC)	Description	Conv	Status / resources
40	Study issue of compelling persons under threat of sanctions to provide evidence in Requesting State by use of a request for service transmitted under the Convention	S	This will be addressed in the new edition of the Evidence HB.
15	Study on extrajudicial documents	S	This will be addressed in the updated edition of Service HB.
Forms			
29	Develop multilingual PDF versions of Model Form to support its mandatory use	S	• Trilingual forms are available in both PDF and Word versions on the Hague Conference website in English, French and any one of the following other languages: Czech, Polish, Russian, Slovak, Spanish, Turkish and Ukrainian. • The finalisation of trilingual forms in Portuguese and Chinese (traditional and simplified) is pending.
54	Develop multilingual PDF versions of Model Form to support its use	E	• In progress. • Final forms to be made available in both PDF and Word (if possible).
Miscellaneous			
7	Promoting the Conventions	E, S	• The PB has co-organised or otherwise participated in seminars and conferences to promote or assist with the implementation of the Service and Evidence Conventions, see the 2012 Annual Report for more information on past missions and the Supplementary Budget (Prel. Doc. No 8, Council Gen. Aff. 2013), for information on future missions. • The PB is developing a brochure on the various legal co-operation and litigation Conventions; relevance of these instruments for international trade and investment will be highlighted.

C&R (2009 SC)	Description	Conv	Status / resources
11	Explore if Service HB can be made available online in parts or in its entirety	S	• The FAQ section of the Service HB is available on the Service Section. • The PB is considering the possibility of making the updated edition of the Service HB available for download from the Hague Conference website against payment.

Apostille Convention

C&R (2012 SC)	Description	Status / resources
Applicability of the Apostille Convention		
16	The PB was invited to continue its dialogue with INTERPOL and law enforcement agencies to explore possible synergies between the application of the Apostille Convention, including the e-APP, and the secure and swift transmission and execution of extradition requests.	The PB has held preliminary meetings with INTERPOL officials and further dialogue is expected over the coming 12 months.
17	Study the practical difficulties regarding authentication of documents issued by international organisations and suggest solutions.	Ongoing.
Handbooks (HB) / Guides / Brochures / Guidelines		
29	Finalise the Apostille Handbook (HB), taking into account the issues addressed at the 2012 SC	• The Apostille HB has been completed in both English and French and will be published in April 2013. The HB will be made available on the "Apostille Section" of the Hague Conference website. • A revised translation of the Spanish version of the Apostille HB is being prepared. • Members are invited to consider supporting the translation and publication of the Apostille HB into other languages.
5	*ABCs of Apostilles* (spin-off of work on HB – brochure for general audience)	• English and French versions published in both paper and electronic form (available on the Apostille Section of the Hague Conference website). • Spanish version published in electronic form only – paper form subject to additional resources. • The publication of the Russian and German versions is subject to additional resources.

5	*Brief Implementation Guide* (spin-off of work on HB – guide for States interested in joining the Apostille Convention)	• English and French versions published in both paper and electronic form (available on the Apostille Section of the Hague Conference website). • The publication of the Spanish and Arabic versions is subject to additional resources. • Arabic translation has been prepared by the Ministry of Justice of Qatar - publication of electronic and paper versions subject to additional resources.
Forms		
20	Promote multilingual model Apostilles	In addition to the existing fillable multilingual models, a new trilingual model (German, English, French) in both PDF and Word is now available on the Apostille Section.
electronic Apostille Program (e-APP)		
3, 28	Further develop and promote the e-APP	• Promotion of the e-APP at a global level and assistance with its implementation is ongoing. The e-APP is attracting significant interest. • Over 150 Competent Authorities in 17 States have now implemented either or both components of the e-APP; the latest development relates to Ireland, whose Department of Foreign Affairs and Trade has implemented the e-Register component (in March 2013). • The *8th International Forum on the e-APP* will take place in Montevideo (Uruguay) from 17 to 18 October 2013. The preparations for this Forum, which is being co-organised by the PB, have started (see Circular L.c. ON No 5(13)).
Special Commission (SC)		
30	2012 SC – follow-up and next meeting	• An updated version of Prel. Doc. No 3 of September 2012 concerning the Synopsis of the Responses to the 2012 Apostille Questionnaire is currently being finalised. • With regard to future Special Commissions, the SC recommended to the Council that the next meeting of the SC be held within the next three to five years, depending on the overall work programme of Hague Conference and the PB. • The SC also recommended that the next meeting again be dedicated exclusively to the practical operation of the Apostille Convention and not be paired with the analysis of the practical operation of another Hague Convention (namely the Service, Evidence and Access to Justice Conventions).

Part II: Conclusions and Recommendations requiring specific action on the part of Contracting States (communication to the PB)[3]

Service, Evidence and Access to Justice Conventions

C&R (2009 SC)	Task	Status
	Service Convention	
8, 16, 27	Yearly update of relevant information, including about authorities, practices and developments for inclusion in the Service Section of the Hague Conference website	A few States have sent updated information.
	Evidence Convention	
51	States which have made a general, non-particularised declaration under Article 23 are invited to revisit and amend their declaration.	No State that has made such a declaration has amended it.
57	Exchange with other States about experience on use of video-link and other modern technologies and communicate information to the PB	No information received.
	Access to Justice Convention	
64	Provide the PB with Model Form in view of creating multilingual forms and to make them available online	No information received.
65	Feasibility study on the provision of enhanced legal assistance in particular categories of cases, such as small and / or uncontested claims	No further action (see C&R of the Council of 2009, under "other topics")

[3] C&R which invite States to take specific actions but which do not necessarily require communication to the PB are not listed here (*e.g.*, promote relevant Conventions, promote uniform interpretation of relevant Conventions, use Model Forms, etc.).

Apostille Convention

C&R (2012 SC)	Task	Status
7	Objecting States are encouraged to continue assessing whether the conditions for withdrawing their objections to accessions are met.	No objections have been withdrawn since the 2012 Council meeting.
8	Provide the PB with regular updates of information relating to their State in order to make them available online in the Apostille Section, including the competences of each Competent Authority	A number of States have sent updated information.
19	Inform the PB about Apostille issuance procedure (in particular, one-step vs. multiple-step process, on the necessity of intermediate certifications)	No information received.
20	Prepare multilingual Model Apostilles by incorporating their own language(s) into the available multilingual models and to share them with the PB	No information received.
23	Share with the PB any additional text intended for use in Apostilles issued.	No information received.
27	Notify the PB of requests made to Competent Authorities for confirmation of Apostille issuance procedures	Several jurisdictions have informed the PB of these requests since the last Council meeting.
28	Consider implementation of the e-APP	Approximately 20 States are currently considering implementing at least one of the e-APP components, including States that are in the process of joining the Convention.