AFFAIRES GÉNÉRALES ET POLITIQUE
GENERAL AFFAIRS AND POLICY

Doc. prél. No 2
Prel. Doc. No 2

février / February 2013

HccH
HAGUE CONFERENCE ON
PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE
DE DROIT INTERNATIONAL PRIVÉ

PROGRAMME DE TRAVAIL DU BUREAU PERMANENT POUR LE PROCHAIN EXERCICE FINANCIER (PREMIER JUILLET 2013 – 30 JUIN 2014)

établi par le Bureau Permanent

* * *

WORK PROGRAMME OF THE PERMANENT BUREAU FOR THE NEXT FINANCIAL YEAR (1 JULY 2013 – 30 JUNE 2014)

drawn up by the Permanent Bureau

Document préliminaire No 2 de février 2013 à l'intention du Conseil d'avril 2013 sur les affaires générales et la politique de la Conférence

Preliminary Document No 2 of February 2013 for the attention of the Council of April 2013 on General Affairs and Policy of the Conference

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* http://www.hcch.net

PROGRAMME DE TRAVAIL DU BUREAU PERMANENT
POUR LE PROCHAIN EXERCICE FINANCIER
(PREMIER JUILLET 2013 – 30 JUIN 2014)

établi par le Bureau Permanent

* * *

WORK PROGRAMME OF THE PERMANENT BUREAU
FOR THE NEXT FINANCIAL YEAR
(1 JULY 2013 – 30 JUNE 2014)

drawn up by the Permanent Bureau

INTRODUCTION

1. The Note on the "Work Programme of the Permanent Bureau for the next Financial Year", first presented by the Permanent Bureau in February 2009, is intended to assist Members in preparing their decisions on the work programme of the Conference at the annual meeting of the Council on General Affairs and Policy in April 2013. In order to further assist Members in determining the next work programme, this Note instead of referring for Post-Convention work to additional documents, incorporates essential information below, which is contrary to previous versions, which cross-referenced other sources to provide further details on Post-Convention work.

(a) Work on Conventions

2. As noted in the previous Notes on the Work Programme, it should be recalled that no Diplomatic Session has been held since November 2007 (despite Art. 4(6) of the Statute of the Conference, according to which "Ordinary Sessions of the Conference shall, in principle, be held every four years"), and that at this point Council has not taken any decision to proceed with the preparation of a new Hague Convention. While work continues on Choice of Law in International Contracts, these efforts are intended to lead to a non-binding instrument, which does not normally call for a meeting of a diplomatic character to formally approve the final instrument.[1]

3. There are certainly explanations to be found for this situation. One might be that the rhythm of development of Hague Conventions since 1993 has been very high – with at least one Convention being adopted at least every three years.[2] Members, many of whom are confronted with limited resources, may have found it difficult to follow this pace in their efforts to absorb, ratify and implement these instruments.[3] In any event, the current state of affairs is certainly explained by the difficulty which Council has experienced repeatedly since 2007 to reach a common decision on a new theme for a binding instrument, notwithstanding the fact that a number of suggestions have been made for possible topics.

4. Two important considerations should lead the Hague Conference to resume work on a binding instrument. First, the art and discipline of preparing and negotiating a binding instrument is one of the long-time acclaimed achievements of the Hague Conference.[4] It should not pass out of use, and the Permanent Bureau should continue to maintain its

---

[1] Non-binding instruments have sometimes been adopted at Diplomatic Sessions of the Hague Conference but only in combination with (draft) Conventions, see, *e.g.*, Final Act of the Fourteenth Session (1980), which, in addition to adopting the texts of the Child Abduction Convention and the Access to Justice Convention, adopted "'Articles' on the Law Applicable to Certain Consumer Sales" and a related Decision concerning the scope of the 1955 Convention on the law applicable to international sales, see *Actes et documents de la Quatorzième session*, *Tome I, Miscellaneous matters (1980), La Haye, Imprimerie Nationale*, 1982, pp. I-28 *et seq*. (at pp. I-60 *et seq*).

[2] 1993: *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*; 1996: *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*; 1999: *Convention on the International Protection of Adults* (first signed on 13 January 2000); 2002: *Convention on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary* (first signed on 5 July 2006); 2005: *Convention on Choice of Court Agreements*, and *Amendments to the Statute*; 2007: *Convention on the International Recovery of Child Support and Other Forms of Maintenance Obligations* and *Protocol on the Law Applicable to Maintenance Obligations*.

[3] While the Intercountry Adoption Convention has attracted 89 Contracting States (including 31 non-Member States), the Child Protection Convention has 39 Contracting States (including 3 non-Member States), the Protection of Adults Convention has seven Contracting States, the Securities Convention has two Contracting States, the Choice of Court Convention has one Contracting State, the Child Support Convention has three Contracting States and its Protocol has one Contracting State (as of 24 January 2013).

[4] *Cf.* the prominent place already given to the "highly structured treaty-making process" of the Hague Conference in *Review of the Multilateral Treaty-Making Process*, a Report submitted by he Secretary General of the United Nations to the UN General Assembly, Document A/35/312 of 27 August 1980, pp. 11-12.

level of practice, and indeed its skills, in preparing and organising diplomatic negotiations, in addition to its other work. Second, regularity in the holding of Diplomatic Sessions provides a valuable structuring element to the overall work programme of the Conference. Resuming work on a binding instrument would no doubt alleviate some of the concerns expressed by some Members in recent years about the governance of the Organisation, as the traditional cycle – consisting of the preparation of a scientific report by the Permanent Bureau, discussion and drafting of a preliminary Convention by a Special Commission, commenting on the draft Convention and draft explanatory report by the Members, diplomatic negotiations on the Convention, and consolidation of the adopted text and explanatory report – provides a well-established framework, which naturally assists the Organisation in determining its priorities for its work programme.

5. As noted, it is not for lack of potential subjects that the Council has not been able to decide on a new topic for a binding instrument. One factor that may have prevented such a decision is, perhaps, a somewhat rigid view on the need for full consensus on any new topic. In a global Organisation of 72 Members it will not always be possible to reach unanimity on any future topic. While Members remain, of course, fully entitled initially to favour topics which are primarily useful from their perspective, and oppose those that are not, this should not necessarily block a topic from being included in the agenda for a new Convention if a substantial number of States expresses a strong interest in such a topic, especially if such an interest is confirmed by scientific research or views of leading experts in the field. After all, all Members remain free to make their own assessment as to whether to sign and ratify a Hague Convention; indeed, so far, none of the Hague Conventions has been embraced by all Members. And experience has also shown that Members which initially are not convinced on the usefulness of a proposed Convention may find it of great interest and join at a later time.

6. Therefore, it is hoped that the April 2013 Council will be able to take, or at least prepare, a decision as to the development of at least one new binding instrument, which would enable the Conference to resume its established cycle of work on Conventions.

(b) Non-binding legislative instruments

7. As noted, the work on a non-binding instrument on choice of law in international contracts continues, and the Special Commission which met from 12 to 16 November 2012 agreed on the Draft Hague Principles on Choice of Law in International Contracts and Recommendations for the Commentary on these Principles. The Council on General Affairs and Policy is invited to approve the draft Principles, see further *infra* No 13.

(c) Post-Convention services – Adaptation of the operation of Conventions to the digital environment

8. Work also continues on the promotion and implementation of the e-APP (the electronic Apostille Program) as a tool to further enhance the secure and effective operation of the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* ("Apostille Convention"). The Special Commission on the practical operation of the Apostille Convention that met from 6 to 9 November 2012 encouraged States to consider implementing the use of e-Apostilles and e-Registers, and to exchange information about the implementation of the e-APP.

(d) Other post-Convention services

9. In addition to the promotion and implementation of the e-APP, and indeed of the Apostille Convention itself, a broad range of other post-Convention services relating to other Hague Conventions continue to take up a large part of the Permanent Bureau's resources. At its meeting of April 2012, Council once again expressed its support for these activities, while at the same time mandating a Working Group to develop a strategic framework for post-Convention services including technical assistance.[5]

10. With regard particularly to the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption,* the 2012 Council noted, on the one hand, the significant progress made with the development of tools to establish and share good practices concerning the Convention, to which the Expert Group on the Financial Aspects of Intercountry Adoption that met from 8 to 9 October 2012 made an important further contribution.[6] On the other hand, the 2012 Council noted the lack of funding to continue the position of the Intercountry Adoption Technical Assistance Programme (ICATAP) Co-ordinator, which remains at this point unresolved and needs particular attention in order to ensure that the Convention continues to serve its purpose as the accepted global framework for protection of children in the context of intercountry adoption.

11. The Council will have before it for discussion, and possibly decision, the Conclusions and Recommendations and the Report of the Working Group chaired by H.E. Ambassador Susan Jacobs. See further, *infra* Work Programme for 2013-2014, Part C.

(e) Regional presence and programmes

12. The regional presence of the Organisation in Latin America and regional conferences, seminars and other events – including seminars on a variety of Hague Conventions and their relevance for the Caribbean Region and Bermuda, held in Hamilton, Bermuda, from 21 to 24 May 2012,[7] and on the Intercountry Adoption Convention held in Dakar, Senegal, from 27 to 30 November 2012[8] – have proved to be very successful, cost effective, and to contribute significantly to the engagement of Member States in various regions (see further *infra* Work Progamme 2013-2014, Part C.3). As a further development, following the endorsement of the 2012 Council of the proposal to establish an Asia Pacific Regional Office for the Hague Conference in Hong Kong SAR, China, for an initial period of three years, this Regional Office was officially opened on 13 December 2012 in the presence of a large number of high representatives from States and Organisations in the Region and of Member States of the Conference. It promises to be an important platform for the increasing range of activities of the Hague Conference in the large Asia Pacific region.

---

[5] The Working Group was asked to review, among others, the three year strategic plans developed for each of the main technical assistance programmes offered by the Permanent Bureau. Subject to the conclusions of the Working Group, these strategic plans remain tentative but can be made available upon request.

[6] See circular letter L.c. ON No 48(12) of 22 November 2012 for the Conclusions and Recommendations and, further, Section C *infra.*

[7] The Conclusions and Recommendations are available on the Hague Conference website < www.hcch.net > under "News & Events" then "2012".

[8] For the Conclusions and Recommendations, see *ibid*.

WORK PROGRAMME FOR 2013-2014

A. Current Work and possible new topics

Topic 1 – Choice of Law in International Contracts

13. The Council will have before it Preliminary Document No 6, "Choice of Law in International Contracts: Draft Hague Principles and future planning". Council is invited to approve the Draft Hague Principles and, in addition, to confirm the mandate to the Working Group to write a Commentary on the Draft Hague Principles.[9] Pursuant to this mandate, the Working Group would reconvene to complete the Commentary including in particular the issues identified by the Special Commission. The Commentary would then be distributed to all Member States and observers for written consultation, and the Working Group would finalise the Commentary. The final Draft Hague Principles, including the Commentary, are expected to be submitted to the Council in 2014 for final approval.

Topic 2 – Results of the Special Commission on the practical operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention

14. Following its examination of the consolidated Conclusions and Recommendations (1-75 from Part I, June 2011, and 76-93 from Part II, January 2012, see Prel. Doc. No 12 for the attention of the Council on General Affairs and Policy of April 2012), the Council at its 2012 meeting specifically authorised the establishment of:

a) an Expert Group to carry out further exploratory research on the recognition and enforcement abroad of agreements between the parents (parties) reached in the course of international child disputes. This work would include identification of the nature and extent of the legal and practical problems in this area, including, specifically, jurisdictional issues and would evaluate the benefit of a new instrument in this area, whether binding or not (Recommendation 77); and

b) a Working Group composed of 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 Child Abduction Convention, with a component to provide guidance specifically directed to judicial authorities, taking into account the conclusions and Recommendations of past Special Commission meetings and Guides to Good Practice (Recommendation 82).

The Permanent Bureau will report orally on progress made in respect of these two Groups, and on possible next steps.

Topic 3 – Mediation in the context of the Malta process

15. Following on the Report of the Working Party as presented by the Co-Chairs, Justice Jillani of Pakistan and Mr William Crosbie of Canada, Council will receive an oral report on progress made since April 2012, and on possible next steps.

---

[9] See Conclusions and Recommendations adopted by the Council on General Affairs and Policy of April 2011 (C&R No 6): "The Council decided that the draft articles and the commentary prepared by the Working Group should be reviewed by a Special Commission at a later stage.", available on the Hague Conference website < www.hcch.net > under "Work in Progress" then "General Affairs".

Topic 4 – Accessing the content of foreign law and the need for the development of a global instrument in this area

16. At its 2012 meeting, the Council decided, as it did at its previous meeting, that the Permanent Bureau should continue monitoring developments but not take any further steps in this area at this point. The Permanent Bureau will report orally on its monitoring activity.

Topic 5 – Continuation of the Judgments Project

17. The Council at its 2012 meeting decided to proceed with the Judgments Project and (a) decided to establish a Working Group to draft proposals for inclusion in an instrument on the recognition and enforcement of judgments, and (b) acknowledged the desirability and feasibility of making provisions in relation to matters of jurisdiction (including parallel proceedings) in this or another future instrument required further study and discussion. The Council invited the Experts' Group, which met for the first time in April 2012, to reconvene in order to consider and make recommendations on these matters.

18. The Working Group meeting will be held in The Hague from 18 to 20 February 2013 and the Experts' Group meeting from 21 to 23 February 2013. The Council will have before it Preliminary Document No 3 regarding the ongoing work on international litigation and continuation of the Judgments Project, which includes a report on progress made by the Working Group and a set of Conclusions and Recommendations from the Experts' Group. Council is invited to further discuss the recommendations that the Experts' Group might make on the core elements of a future chapter / instrument on matters of jurisdiction, as well as review progress made by the Working Group. In addition, Council may wish to consider future steps for this topic.

Topic 6 – The application of certain private international law techniques to aspects of international migration

19. The Council at its 2012 meeting accepted, as it did on previous occasions, 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. The Permanent Bureau will present oral comments.

Topic 7 – Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements

20. The Council at its 2012 meeting welcomed the preliminary report drawn up by the Permanent Bureau and invited the Secretariat to 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 would seek views on the needs to be addressed and approaches to be taken. The Permanent Bureau was invited to present its final Report to the Council in 2014. The Questionnaire is expected to be sent before Council and the Permanent Bureau will provide a brief oral update.

Topic 8 – Recognition and enforcement of foreign civil protection orders: A Preliminary Note

21. The Council at its 2012 meeting 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. The Questionnaire was sent out in November 2012 and the Permanent Bureau will produce a written report for the attention of the Council.

B. Other Topics

22. The "other topics" listed in the Conclusions of the April 2012 Council meeting, developments of which the Permanent Bureau was asked to follow are:

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; and

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

The Permanent Bureau will report orally on developments on these topics.

C. Post-Convention work

1. Legal co-operation and litigation

23. The Special Commission on the Practical Operation of the Apostille Convention, which met in November 2012, adopted 30 Conclusions and Recommendations, many of which provide guidance for further work of the Permanent Bureau, including finalisation of the Handbook on the Practical Operation of the Apostille Convention, and further work on the e-APP as mentioned *supra* No 8.

24. With work now having been finalised on the Apostille Special Commission, the Permanent Bureau has started to undertake work with a view to preparing the next Special Commission meeting on the practical operation of the 1965 Service and 1970 Evidence Conventions (see Conclusion and Recommendation No 26 of the 2012 Council meeting). It is for this 2013 meeting of the Council to decide (a) the timing of this Special Commission meeting, as well as (b) the possible inclusion of the review of the 1980 Access to Justice Convention on its agenda.

25. The main document to be prepared for this Special Commission meeting will be a draft of a fully revised edition of the Practical Handbook on the Evidence Convention. The Permanent Bureau is preparing this document in a similar way to the Apostille Handbook, and is currently assessing the possibility of securing the additional support of at least one secondment on a flexible, part-time basis for the drafting of the Handbook. The Permanent Bureau is also working on an updated, fifth edition of the Service Handbook, which takes account in particular of the case law as it has developed since 2006 (the

year of the last edition) and developments in e-service. The Service Handbook will be submitted to the Special Commission for information.

26. The Permanent Bureau does not intend to prepare comprehensive questionnaires on the Conventions being reviewed, as it considers that much of the information provided by States in response to the questionnaires ahead of the last meeting in 2009 remains relevant. Instead, the Permanent Bureau intends only to reach out to new States to share their experiences in joining the Conventions, and to ask all States to provide latest statistics on the operation of the Conventions and identify any issues that should be addressed by the Permanent Bureau in preparation for the meeting.

27. The Permanent Bureau proposes that the Special Commission meeting be held, if possible, in the first half of 2014. The Permanent Bureau also proposes that the Access to Justice Convention be included on the agenda of the meeting. The inclusion is not expected to involve significant extra preparatory work, given the nature of the Convention as an anti-discrimination instrument, rather than an instrument of active legal co-operation, which makes its practical operation more difficult to monitor.

28. In addition, the Hague Conference continues to promote the Choice of Court Convention. The importance of efforts to promote the entry into force of the Choice of Court Convention was recalled by the Council at its meeting in 2011 (see Conclusion and Recommendation No 15) and was recently endorsed by the International Chamber of Commerce's call to States advocating for large-scale ratification of the Convention.[10] As part of its promotional work, the Permanent Bureau liaises with those States that are currently implementing the Convention or have expressed an interest in this regard. It also maintains a mailing list on the implementation of the Convention, as well as the Choice of Court Section on its website as a one-stop information hub to publicise recent developments relating to the Convention. Furthermore, the Choice of Court Convention has been included on the agendas of major Hague Conference multi-track promotional events (*e.g.*, the Asia Pacific Regional Conferences, the aforementioned Caribbean Seminar, and other events) and has been promoted in other events and through publications.

2. International protection of children, vulnerable adults, family relations and family property relations including succession

i) 1980 Child Abduction Convention and 1996 Child Protection Convention

29. In addition to the ongoing work on Topics 2 and 3, mentioned *supra* Nos 14 and 15, and in response to requests for information and assistance, in particular from States Parties to the 1980 and 1996 Conventions or States considering joining these Conventions, the following are some of the action points for the Permanent Bureau resulting from the Conclusions and Recommendations of the Sixth Meeting of the Special Commission on the Practical Operation of the 1980 Child Abduction Convention and the 1996 Child Protection Convention:

(a) Revision of the draft Handbook on the practical operation of the 1996 Child Protection Convention

30. A revision of the draft Handbook in light of the comments provided at the Special Commission meeting, taking account of comments sent by Contracting States to the

[10] See < http://www.iccwbo.org/News/Articles/2012/ICC-calls-on-governments-to-facilitate-cross-border-litigation/ >.

Permanent Bureau as well as those made during the Special Commission, will be provided to experts in the coming months.

(b) Research on the operation of Article 15 of the 1980 Child Abduction Convention

31. The Special Commission identified certain problems, including delays, in the operation of Article 15 of the 1980 Child Abduction Convention. It was therefore recommended that "the Permanent Bureau give further consideration to the steps which may be taken to ensure a more effective application of the Article". The Permanent Bureau is currently looking for resources to carry out this study.

(c) Establishment of the Central Authority "Mentoring" Programme

32. The Special Commission suggested that immediately following a State becoming Party to the 1980 Child Abduction Convention (or, in an appropriate case, where a State is preparing to do so or has expressed a strong interest in doing so) the State in question should be offered the opportunity to visit an experienced Contracting State for the purpose of gaining knowledge and understanding regarding the effective practical operation of the Convention. While it remains for the two States concerned to organise and arrange the visit, the Permanent Bureau was asked to facilitate and administer this process, which it has already started doing in respect of some countries.

(d) "Listserv" on challenges in the implementation of the 1996 Child Protection Convention

33. During Part I of the 2011 Special Commission, it was suggested to create an informal network of experts "to discuss strategies and challenges in the implementation of the 1996 Convention, for example with discussion carried out through a "listserv" (a closed electronic list)". This "listserv" was launched in August 2012 and has been, since October, serving as a platform for discussion on specific matters related to the Convention. The Permanent Bureau is monitoring the discussion and will, if requested, provide information or conduct research on matters raised.

(e) International Child Abduction Database

34. The Special Commission confirmed that the International Child Abduction Database (INCADAT), established by the Hague Conference in 2000 with the objective of making accessible (at no cost to the user) leading decisions taken by national courts in respect of the 1980 Child Abduction Convention, remains an indispensable tool for the effective operation of the Convention. Its maintenance, in three languages, constitutes one of the main Post-Convention services offered by the Hague Conference, and requires continuing intensive work by the Permanent Bureau.

(f) Country Profile for the 1980 Child Abduction Convention

35. Acknowledging the important improvement the Country Profile makes to the exchange of information between Central Authorities, the Special Commission recommended that "Contracting States regularly update their Country Profile to ensure that the information remains current." The Permanent Bureau continues its ongoing administration of the Country Profile programme, including by sending periodic information and reminders to Central Authorities.

(g) Return Form

36. The Permanent Bureau is looking for resources to enable it to update the return form under the 1980 Child Abduction Convention, make it available for electronic

completion and develop a standardised Request for Access form. Both forms should be available in several languages.

(h) Judges' Newsletter

37. The Permanent Bureau continues its work on the regular bi-annual publication of the Judges' Newsletter. Work is currently being undertaken on the development of an index, to be made available online, for all past editions of the Judges' Newsletter

(i) International Hague Network of Judges (IHNJ)

38. The Permanent Bureau, in collaboration with the Judiciary of England and Wales, is organising a meeting of the IHNJ that will be held from 17 to 19 July 2013 at Cumberland Lodge, Windsor, UK. In addition to celebrating the 15th anniversary of the Network, the meeting will serve as a venue to discuss a number of practical matters concerning the Network and the promotion of direct judicial communications (see *infra* No 39). The promotion of the designation of Judges to the IHNJ, the development of practical mechanisms, and the promotion of the use of the emerging Guidance and General Principles on Judicial Communications will be among the issues discussed at the meeting.

(j) Direct judicial communications

39. In accordance with the Conclusions and Recommendations of the Sixth Meeting of the Special Commission to review the practical operation of the 1980 and 1996 Conventions, the Permanent Bureau is in the process of drawing-up a short information document on direct judicial communications for judges who are not members of the IHNJ. Subject to the finalisation of an MOU with the *Conferencia de Ministros de Justicia de los Países Iberoamericanos* (Conference of Ministers of Justice of Ibero-American Countries) the Permanent Bureau will possibly develop a pilot project for effective secured electronic communications among judges in collaboration with IberRed.

(k) INCASTAT

40. The Permanent Bureau continues its search for the supplementary funding necessary to finalise the INCASTAT database in accordance with Information Document No 7 of January 2012 for the attention of the Special Commission of January 2012 on the practical operation of the 1980 and 1996 Conventions. This will allow the electronic collection of statistics that have been previously collected for the Statistical Reports prepared by Professor Nigel Lowe. The Permanent Bureau, in conjunction with certain interested States, will then also explore the possibility of automated data migration to INCASTAT.

(l) iChild

41. The Permanent Bureau continues its ongoing efforts to promote and implement the iChild case management system in Central Authorities designated under the 1980 Child Abduction Convention.

(m) Projects related to website and publications

42. Work is ongoing on further improvements of the information provided on the website of the Conference relating to the 1980 and 1996 Conventions as well as on the publication of small brochures on these instruments.

ii) 1993 Intercountry Adoption Convention

(a) Publication of the Guide on Accreditation and adoption accredited bodies: general principles and Guide to Good Practice

43. Since the 2012 Council meeting, the Guide to Good Practice No 2 on the 1993 Intercountry Adoption Convention, *Accreditation and adoption accredited bodies: general principles and Guide to Good Practice*, has been finalised and was published in early 2013 in English and French. Resources permitting, it is hoped that publication in Spanish will follow in 2013.

(b) Expert Group on the Financial Aspects of Intercountry Adoption

44. From 8 to 9 October 2012, a meeting of the Expert Group on the Financial Aspects of Intercountry Adoption was held, which resulted in important Conclusions and Recommendations and agreement concerning the next steps. As a result, work continues in 2013: (1) to revise the "Discussion Paper on the Financial Aspects of Intercountry Adoption" (drawn up by the Permanent Bureau) in light of the discussions at the meeting, with a view to publishing it as a Note; (2) to finalise the tables on costs; (3) to prepare a summary list of good practices concerning the financial aspects of intercountry adoption; and, if time and resources permit, (4) to start the preparation of a Model Survey for adoptive parents in order to collect further information on the actual costs involved in an adoption and with a view to ensuring transparency.

(c) Informal Group for preventing and addressing illicit practices in intercountry adoption

45. Following the publication in English, French and Spanish of the Discussion Paper "Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases" in 2012, further work in this area may take the form of practical guidelines for Central Authorities to ensure that the principles of co-operation mentioned in the Discussion Paper are supported and implemented. This work is subject to having one Central Authority volunteer to co-ordinate the work, as was done during this first period by the Australian Central Authority, with the support of the Permanent Bureau.

(d) Other follow-up work from the 2005 and 2010 Special Commission meetings

46. The following are some of the action points for the Permanent Bureau resulting from the 2005 and 2010 Special Commission meetings on the practical operation of the 1993 Intercountry Adoption Convention which the adoption team envisages working on in 2013: (1) the development of a model form for the consent of the child (Art. 4 *d)*(3)); (2) the development of model forms or protocols regarding the operation of Articles 15 and 16 of the 1993 Convention; (3) the development of a model form regarding post-adoption reporting; and (4) the development of ICASTAT (the intercountry adoption statistical database).

(d) Preparations for the next Special Commission meeting

47. Work has commenced for the preparation of the next Special Commission on the practical operation of the 1993 Intercountry Adoption Convention, currently scheduled to take place in late 2014 or early 2015. Possible topics and documents include those set out above, as well as the trends in intercountry adoption; an examination of the principle

of subsidiarity and its implementation; the search for origins using new technologies; the adoption of special needs children; open adoptions; interaction of the 1993 Intercountry Adoption Convention and the 1996 Child Protection Convention; alternatives to adoption *e.g.*, international foster care; and, follow up concerning international surrogacy arrangements in relation to intercountry adoption.

(e) Ongoing general post-Convention work concerning the 1993 Intercountry Adoption Convention

48. Ongoing general post-Convention work concerning the Convention continues apace on a daily basis at the Permanent Bureau, including: answering questions from Central Authorities, providing information concerning the interpretation and implementation of the Convention to governments and authorities, following up new accessions and ratifications, updating the "Intercountry Adoption Section" of the Hague Conference website including, amongst other things, the development of FAQs on intercountry adoption for the website and keeping updated the new "Information Brochure" on the Convention.

(f) Intercountry Adoption Technical Assistance Programme (ICATAP)

49. The Permanent Bureau continues to support and advise countries on the proper implementation and operation of the 1993 Intercountry Adoption Convention. Long-term projects include work with Cambodia in partnership with the Philippines' Central Authority, work in multiple countries in Africa, and management of a project in co-operation with the Montreal Group in Haiti.

iii) Protection of Adults Convention

50. Work continues, as resources allow, on the promotion and sharing of information on the 2000 Protection of Adults Convention among potential new Contracting States. The Permanent Bureau continues to explore synergies with respect to promotion of the Convention in co-operation with the Secretariat for the 2006 United Nations Convention on the Rights of Persons with Disabilities and with Contracting States to that Convention.

iv) Recovery of child support and other forms of family maintenance

(a) Consolidation of documentation from the Twenty-First Session (2007)

51. The Explanatory Reports on both the 2007 Hague Child Support Convention and the 2007 Protocol on Applicable Law will soon be available in off-print form prior to being published in the *Proceedings of the Twenty-First Session* (2007) which will contain the Final Act of the Session, minutes of the sessions, working documents submitted and all relevant documents produced during the course of negotiations.

(b) Practical Handbook for Caseworkers under the 2007 Child Support Convention

52. Final review and publication of the Practical Handbook are underway, in light of comments received. The Practical Handbook will be published in electronic form.

(c) Country Profile for the Child Support Convention

53. Thanks to supplementary funding provided by Norway and Alphinat Canada, an electronic version of the Country Profile has been made available to future State Parties to assist them in meeting their obligations under Article 57 of the Convention. A Spanish version of the Country Profile will be made available soon thanks to an additional private, in-kind contribution. Subject to available resources, development of an Extended Scope Country Profile will be undertaken with the assistance of a Working Group facilitated by the Permanent Bureau.

(d) iSupport (electronic case management and Internet based communication system in support of the Convention)

54. Work is underway to find supplementary funding in order to put together a small team to work on the development of the iSupport system in co-operation with interested States. This work consists in designing and developing functional and technical requirements for the system, devising a tendering process to build the software *per se*, and developing a funding strategy to operate and maintain the system.

(e) Projects related to website and promotion / publicity materials.

55. Work will soon be undertaken on the development of a special section of the Hague Conference website devoted to the new Child Support Convention and its Protocol, and on the publication of short brochures on these instruments.

3. Regional programmes – education, training and technical assistance

56. As mentioned *supra*, No 12, regional programmes and the presence of the Hague Conference in various regions have become a very successful, cost effective method of engaging (potential) Member States and States Parties to Hague Conventions in various regions of the world.

57. Ongoing activities in Latin America include, among others: i) Organisation of a regional symposium on the 1996 and 2007 Conventions (in order to promote and facilitate the incorporation and implementation of these Conventions in the region); ii) Promotion and support for States in the implementation of good practices to improve the operation of Hague Conventions (*e.g.*, e-APP, Guides to Good Practice, Handbooks, law reforms, etc.); iii) Provision of technical assistance and legal training to actors in the region (in co-ordination with the Centre for Judicial Studies and Technical Assistance); iv) Support for the development and operation of the International Hague Network of Judges in the region (including promotion of direct judicial communications and the emerging Guidance and General Principles on Judicial Communication); v) Co-operation with other organisations (*e.g.*, participation in the working group on judicial co-operation under the aegis of the Ibero-American Judicial Summit (to be held in Antigua, Guatemala from 27 February to 1 March)); participation in the IABA Annual Conference (to be held in Asuncion, Paraguay from 20 to 24 June); participation in the ASADIP annual meeting (to be held in Asuncion, Paraguay from 31 October to 2 November); vi) Provision of support for the organisation of Special Commissions; vii) development and promotion of the work of the Conference in Spanish (INCADAT, website, etc.); and viii) Respond to regular inquiries from Central Authorities, judges, and individuals.

58. The Hague Conference also plans to continue strengthening its new Asia Pacific Regional Office in Hong Kong. Now that the Office has officially opened (in December

2012), the Representative will increase efforts to reach out to Members and Contracting States in the Region to further grow the Hague Conference's foundation in Asia Pacific States.

59. As mentioned, the Council will have before it the Conclusions and Recommendations and the Report of the Working Group to develop a strategic framework for post-Convention services including technical assistance. A Report of the Group's work subsequent to its 5 April 2013 meeting will be finalised shortly after the Council meeting.

Conclusion

60. As suggested above in the Introduction, it is hoped that the Council will at its April 2013 meeting be able to take, or at least prepare, a decision as to the development of a new binding instrument which would re-establish the normal regular cycle of work on one or two new Conventions. Several of the eight topics listed above under **A. Current Work and possible new topics** may lend themselves to such work. If two topics are chosen, the Council may wish to identify one in the field of legal co-operation, litigation, trade or finance, and one in the field of family law as possible themes for a future Convention. Also, if two topics were chosen, the Council might determine a tentative time-schedule extending beyond the period 2013-2016 for the legislative programme, because although it is possible to start work in preparation of two Conventions, experience shows that it will be difficult to complete two Conventions in parallel within the traditional cycle (of about four years).

61. In any event, the Council is invited to take the decisions concerning the next steps of the work on Choice of Law in International Contracts (see **Topic 1**) and to determine the work programme relating to the other Topics listed above.

62. Finally, it should be noted that post-Convention work, consisting broadly of treaty administration, monitoring, review and adaption, promotion and development, and assistance to targeted countries or groups of countries with implementation and operation of Conventions (technical assistance), remains for several of its components dependent on additional funding.