

MISE A JOUR DU PLAN STRATEGIQUE

établie par le Bureau Permanent

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STRATEGIC PLAN UPDATE

submitted by the Permanent Bureau

*Document préliminaire No 22 de février 2005
à l'intention de la Commission spéciale de mars / avril 2005
sur les affaires générales et la politique de la Conférence*

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on General Affairs and Policy of the Conference*

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INTRODUCTION

Commission I on General Affairs and Policy of the Nineteenth Diplomatic Session, at its meeting of 22-24 April 2002, agreed that the implementation of the Strategic Plan of the Hague Conference on Private International Law, whose main directions Commission I supported, "should be reviewed on a regular basis by the organs responsible for General Affairs and Policy [...]".¹ This decision was confirmed by the Nineteenth Session in December 2002 and is reflected in the Final Act of that Session under B.2.

This Note provides a summary overview of the implementation of the Strategic Directions set out in Chapter IV of the Strategic Plan from April 2004 until March 2005. As mentioned in the Strategic Plan, the purpose of the Strategic Directions of the Plan is to assist the Permanent Bureau and the Member States in continuing to adapt to the changing and growing demands on the work of the Hague Conference. They provide a framework for the way in which the Hague Conference carries out its mission and operations; the content of the Work Programme of the Conference at any particular time remains a decision for the Commission on General Affairs and Policy. The Strategic Plan supports the Organisation's budget planning for the coming years.

IMPLEMENTATION OF THE STRATEGIC DIRECTIONS

Strategic Direction 1

Increasing the global coverage of the Conference

Membership

- The Conference now consists of 64 Member States:
 - Costa Rica (2002), Paraguay (2003) and Zambia (2004) have been admitted but still need to accept the Statute. Pending the acceptance of the Statute by these States, they are being invited to attend meetings of the Hague Conference as observers.
- The Permanent Bureau continues to work towards increasing the Membership of the Hague Conference in a considered way as provided under paragraph [405] of the Strategic Plan.
- Further to the request of the European Community dated 19 December 2002 to become a Member of the Hague Conference on Private International Law (see L.c. A No 4(03) and L.c. ON No 4(03)) and further to the consultation that followed with Member States and the European Community during the following two years and meetings with an Informal Advisory Group held on 21 to 23 January and 16 and 17 December 2004, the Secretary General will present to the Special Commission on General Affairs and Policy of the Conference a draft Recommendation to the Twentieth Session of the Hague Conference on Private International Law with respect to the admission of the European Community as a Member.

Global coverage of Hague Conventions

- There are now 122 (March 2004: 118) States in all parts of the world which are Parties to one or more Hague Conventions.

¹ See *The Hague Conference on Private International Law Strategic Plan*, drawn up by the Permanent Bureau, April 2002, paragraph [008].

- Efforts are being made, including the establishment of special funds to support attendance by experts from less-developed States, to ensure that a large number of non-Member States will be involved in the preparation of a new comprehensive global instrument on the international recovery of child support and other forms of family maintenance (the Maintenance Project), and to secure the participation of non-Member States Parties to the 1993 Convention on Intercountry Adoption in the next meeting of the Special Commission to review its practical operation.

Visibility

- In August 2004, the Conference launched its new Website. This modernised site is database-operated thus facilitating updating and increasing the interaction with users. Furthermore, it is equipped with a search engine covering the entirety of the database. More than 10,000 pages of the website are visited each day.
- During the last year, the Secretary General and Members of the Permanent Bureau made official visits to, lectured or gave seminars in: Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Denmark, Ecuador, France, Germany, Guatemala, India, Ireland, Italy, Japan, Malta, Monaco, Mexico, Morocco, Netherlands, the Russian Federation, Singapore, Spain, South Africa, Switzerland, the United Kingdom and the United States of America.
- During the past 12 months the Permanent Bureau welcomed interns and officials on secondment from the following countries: Argentina, Canada, Egypt, Finland, India, Japan, the former Yugoslav Republic of Macedonia, Mexico, Peru, Poland, Russian Federation, Sweden, Tunisia, the United Kingdom and the United States of America.
- In September and October 2004, the Hague Conference and Japan celebrated the centennial of the participation of Japan in the Organisation with a reception at the Peace Palace in The Hague (The Netherlands) on 23 September, followed by a celebration meeting in Tokyo of the Japanese Association of Private International Law on "The Hague Conference and Japan 1904-2004" on 11 October and a Symposium on The Hague Securities Convention on 12 October.
- The Hague Conference on Private International Law, the Dutch Government and the International Chamber of Commerce (ICC) jointly hosted a conference in The Hague on 26 and 27 October 2004 on the legal issues raised by electronic commerce. The Conference attracted about 120 participants from 29 countries including representatives of governments, intergovernmental organisations (*inter alia* the United Nations Commission on International Trade Law – UNCITRAL, the World Intellectual Property Organization – WIPO, the Organization for Economic Cooperation and Development – OECD and the European Union), national Supreme Courts and international courts, private practice, business, non-governmental organisations (e.g. the *Union Internationale des Huissiers de Justice* and the Motion Pictures Association), academics from around the world, and the press. The Minister of Economic Affairs of the Netherlands, Laurens Jan Brinkhorst, spoke the closing address. The abstracts and power point presentations submitted by the speakers have been published on the Hague Conference website; in 2005, a book including the full conference proceedings will be published.
- In June 2004, one Member of the Permanent Bureau taught at the Hague Academy of International Law.

Accommodating larger meetings

- Discussions with the Carnegie Foundation in order to plan the expansion and modernisation of the Academy Building – where the Conference holds its larger meetings – have continued during the course of the year. Construction of a new expanded Academy Building began in November 2004.
- During the construction period, which is expected to be two years, the Conference will hold its larger meetings at the building of the Chamber of Commerce in The Hague.

Strategic Direction 2

Being selective in relation to the projects undertaken by the Conference and consolidating post-Convention services

The Conference continues to focus equally on its two core activities – the development and review of Conventions, and the provision of unique post-Convention services.

Development of Conventions

- From 7 to 18 June 2004, the Special Commission on the Maintenance Project met for a second time to continue its May 2003 discussions.
- From 19 to 22 October 2004, the Drafting Committee on the Maintenance Project met to produce a second working draft of a Convention to be submitted to the attention of the third meeting of the Special Commission.
- On 22 November 2004, 24 January, 28 February and 14 March 2005 the Administrative Cooperation Working Group (ACWG) on the Maintenance Project met by conference calls through the support of the Office for Child Support Enforcement of the United States of America. The ACWG has established Sub-committees on Forms, Country Profiles and Monitoring and Review that meet by conference calls between the calls of the ACWG.
- On 7 and 8 February 2005, the Working Group on Applicable Law on the Maintenance project met in The Hague.
- From 4 to 15 April 2005, the third meeting of the Special Commission will take place in The Hague.
- A Special Commission met from 1 to 9 December 2003 and 21 to 27 April 2004. The meeting, using as a basis for discussion a text prepared by the Permanent Bureau with the assistance of an informal working group in 2002/2003, adopted a preliminary draft Convention on Exclusive Choice of Court Agreements in B2B Cases (Choice of court Project). The Special Commission appointed Professors Masato Dogauchi (Japan) and Trevor Hartley (United Kingdom) as co-Rapporteurs. Their Explanatory Report on the preliminary draft Convention has been published as Preliminary Document No 25.
- From 14 to 30 June, the Twentieth Session of the Hague Conference will take place at The Hague, the principal topic being negotiations on a Convention on Choice of Court Agreements. In the interim, the Permanent Bureau continues its preparations with a view to facilitating the deliberations during the Diplomatic Session.

Post-Convention services²

- Work with regard to the Guide to Good Practice under the 1980 International Child Abduction Convention to prepare Chapters on: (1) Preventive Measures; (2) Access/Contact; and, (3) the Enforcement of Return Orders, is underway.
- Preparation of a Guide to Good Practice under the 1993 Convention on Intercountry Adoption on implementing measures is underway.
- The International Child Abduction Database (INCADAT) Website now includes 761 summaries in English (April 2004: 575) and 761 in French (April 2004: 455). Work is beginning in respect of Spanish translations of existing case summaries and coverage of cases in Spanish.
- The Permanent Bureau has started the second phase of the iChild/INCASTAT pilot project involving 10 Central Authorities under the 1980 Convention. The iChild software (an electronic case management system donated by WorldReach (Canada) in relation to international child abduction cases which can be used to generate statistics) will be modified for local implementation within Central Authorities. In the interim, the Permanent Bureau has supplemented its website to collect the statistics of the States Parties to the Convention for the purpose of the International Child Abduction Statistical Database (INCASTAT).
- The Permanent Bureau published Volumes VII and VIII of the *Judges' Newsletter* on International Child Protection and continues to be involved in the organisation of judicial seminars.
- The Permanent Bureau continues its work on Direct International Judicial Communications under the 1980 Convention.
- The Permanent Bureau continues to receive and answer a steadily increasing number of requests relating to the practical operation of the Service, Evidence and Apostille Conventions. The provisional version of the new edition of the Practical Handbook on the Service Convention has been continuously updated. Discussions with potential publishers are ongoing and the final version of the new edition will be published in the coming months. Also, work on a new Handbook on the Apostille Convention has started. Due to lack of resources, however, the work on the Evidence Handbook could not be commenced yet.

Legal Education and Training

- The Permanent Bureau continues its work on a Proposal for a Hague International Training Institute (see Prel. Doc. No 6 for the Commission on General Affairs and Policy, March 2003).
- The Permanent Bureau has facilitated international judicial seminars and conferences on International Child Protection such as the Malta Judicial Conference on Cross-Frontier Family Law issues (Government of Malta), 14-17 March 2004 and the Latin American Judges' Seminar on the Child Abduction Convention (held in Monterrey, Mexico), 1-4 December 2004. National training sessions took place in Croatia, 1-2 June and 2-4 December and Belarus, 3-6 July (in co-operation with the Deutsche Stiftung Für Internationale Rechtliche Zusammenarbeit (Germany)), and in Canada, 8-10 July, and Belgium, 1 December 2004.

² Please refer to Prel. Doc. No 29 for further details.

- The Permanent Bureau participated actively in a APEC Symposium, held in Singapore, 14-16 December 2004, designed to familiarize legal policy makers from APEC member economies with the work of the HCCH, UNIDROIT, UNCITRAL and the World Bank in the field of commercial, economic and finance law.
- The Permanent Bureau actively participated in a BIS Central Bank Legal Experts' meeting, held in Quito, 16-18 February 2005, on legal issues in collateral and other security interests and, in particular, presented the Hague Securities Convention.

In consolidating its post-Conventions services, the Conference will continue to develop partnerships with States, governmental and non-governmental organisations, academic and research institutes, and will continue to concentrate its efforts on activities for which it brings added value.

Partnerships with States, governmental and non-governmental organisations

- Through the Supplementary Budget and other *ad hoc* funding requests (Maintenance Project, Choice of court Project, Inter-country Adoption Special Commission and the Latin American Judges' Seminar), the Conference received during the last year (1 April 2004 – 31 March 2005) support by way of contributions or donations from the following States: Australia, Canada, Finland, Malaysia, Netherlands, New Zealand, Norway, United Kingdom and the United States of America (see L.c. A No 1(05)).
- The Hague Conference on Private International Law, the Dutch Government and the ICC jointly hosted a conference in The Hague on 26 and 27 October 2004 on the legal issues raised by electronic commerce (see above).
- The Conference is contemplating the conclusion of an agreement with the Moscow State Institute of International Relations with a view to create a documentation centre to disseminate Hague Conference documents and publications.
- Further to the Memorandum of Understanding concluded with the International Centre for Missing & Exploited Children (ICMEC) in April 2003, ICMEC organised an International Child Abduction Forum held in The Hague in October 2004 to which the Permanent Bureau took part. ICMEC contributed approximately 7,000 Euros to the December 2004 Latin American Judges' Seminar.
- Secondments of State officials and Professors were arranged with Japan (6 months – completed in September 2004), the former Yugoslav Republic of Macedonia (2 months – completed in December 2004) and Canada (Québec) (3 months – completed in April 2004).
- One *stagiaire* was funded by *l'École du Barreau du Québec* and the Canadian Federal Government (6 months – completed in April 2004).

Partnerships with academic and research institutes

- In 2004, New York University provided two summer students.
- In 2004, Georgetown University provided one summer student.
- During the last 12 months different research projects have been undertaken and / or completed with, in particular, Cardiff Law School (United Kingdom) and the University of Aberdeen (United Kingdom). The Permanent Bureau maintains an ongoing cooperation with the *Faculté de droit, Université Jean Moulin*, Lyon (France) and the Tohoku University School of Law (Japan).

Strategic Direction 3

Enhancing working methods and reducing costs by providing flexibility in the development process

New working methods

- A workshop of Caribbean States organised by Canada and attended by the United States and the Permanent Bureau was held in Toronto, Canada, in February 2004 to assist several States of the Caribbean region in their preparation for the Maintenance Project.
- The Maintenance Project's Applicable Law Working Group is discussing its work by way of a listserv.
- The Administrative Cooperation Working Group on the Maintenance Project and its three Sub-committees met by conference calls and discusses through a Listserv the support of the Office for Child Support Enforcement of the United States of America.
- A meeting of experts, mainly from Central Authorities under the 1993 Convention on Intercountry Adoption, met at The Hague from 21-23 September 2004 to give advice to the Permanent Bureau on a first draft of a Good Practice Guide for the implementation of the 1993 Convention.

Strategic Direction 4

Increasing communication and co-operation with other international organisations

Increasing communication

- The Conference has modernised its Website - more than 10,000 pages are visited each day - with a view to facilitating bilingual usage, and making all the information accessible through a database. The new website was launched in August 2004.
- The International Child Abduction Database (INCADAT) has more than 2,434 registered users (1,744 in March 2004) and receives more than 1,500 hits a day (1,000 in March 2004).

During the last 12 months, the Permanent Bureau cooperated with the following organisations:

International and transnational governmental organisations

- *Commission internationale de l'état civil (CIEC)*
- Commonwealth Secretariat
- Council of Europe
- European Union / European Community
- Inter-American Children's Institute (IIN)
- International Institute for the Unification of Private Law (UNIDROIT)
- Organisation of American States (OAS)
- Organisation for Economic Co-operation and Development (OECD)
- United Nations Children's Fund (UNICEF)
- United Nations Commission on International Trade Law (UNCITRAL)
- United Nations Committee on the Rights of the Child (UNCRC)
- United Nations Food and Agriculture Organisation (FAO)
- World Bank

- World Intellectual Property Organisation (WIPO)
- World Trade Organisation (WTO)

It is worthwhile, in particular, to mention the co-ordination meeting held between the head of the Secretariats of UNCITRAL, UNIDROIT and the Hague Conference held in Vienna on 22 November 2004.

International non-governmental organisations

- *Association internationale de droit judiciaire* (AIDJ)
- *Association internationale pour la protection de la propriété industrielle* (AIPPI)
- Bank for International Settlements (BIS)
- Computer Law Association (CLA)
- Conference of Central Securities Depositories
- Euradopt
- European Advertising Standard Alliance (EASA)
- European Central Bank (ECB)
- European Network on Parental Child Abduction
- Financial Market Lawyers Group (FMLG)
- Inter-American Bar Association (IABA)
- International Academy of Matrimonial Lawyers (IAML)
- International Association of Juvenile and Family Court Magistrates (AIMJF)
- International Association of Women Judges (IAWJ)
- International Bar Association (IBA)
- International Centre for Missing and Exploited Children (ICMEC)
- International Chamber of Commerce (ICC)
- International Law Association (ILA)
- International Securities Services Associations (ISSA)
- International Social Service (ISS)
- International Society of Family Law (ISFL)
- International Swaps and Derivatives Association (ISDA)
- International Union of Latin Notaries (IULN)
- Internet Law and Policy Forum
- *Ligue internationale du Droit de la concurrence*
- Nordic Adoption Council
- *Union internationale des Huissiers de Justice et Officiers judiciaires* (UIHJ)
- World Association of Opinion and Marketing Research Professionals (ESOMAR)

Strategic Direction 5

Enhancing the management of internal information

- In the Spring of 2003 an outside consultant was retained by the Permanent Bureau to complete a comprehensive study on the management of internal information and documents in order to increase corporate memory, consolidate the filing system (including electronic filing), enhance the maintenance of the library and improve the use of computer technology to that effect (see paragraph [437] of the Strategic Plan). In November 2003, a Report was released.
- In this respect, the Permanent Bureau intends to hire a part-time librarian and archivist in order to implement a plan of action over the coming years to address different management of information issues on a priority basis.

- During the coming year, the Permanent Bureau will continue the implementation of new computer technology in order to modernise its library database.
- Within the next year the Permanent Bureau will need to invest in new computer technology in order to replace and modernise its current electronic document management system.

Strategic Direction 6

Matching resources and demands by making the decision process more transparent and informed and by increasing the capacity to seek additional funding

- In April 2004 the Special Commission on General Affairs and Policy of the Conference supported and subsequently in July 2004 the Meeting of the Council of Diplomatic Representatives approved a restructuring of the budget of the Hague Conference by transferring approximately 410,000 Euros from the Supplementary to the regular Budget in respect of several of the core activities of the Conference funded, until then, by the Supplementary Budget.
- As a result the following items were secured by transferring their costs from the Supplementary Budget to the regular Budget: one principal legal officer and two legal officers for work on the Children's Convention; one legal officer for the Conventions on legal co-operation (*Apostille, Service, Taking of Evidence*); the maintenance and development of the International Child Abduction Database (INCADAT); work, including the development of Guides to Good Practice and practical handbooks, to support the effective implementation and operation of the Conventions involving child protection and legal co-operation; the employment of one administrative assistant; and the employment of a part-time assistant for Hague Conference publications.
- The Special Commission on General Affairs and Policy of the Conference, which will meet on 31 March and 1 April 2005, will have before it for its information a Proposed Budget for Financial Year LI (1 July 2005-30 June 2006) (see Strategic Plan, paragraph [427]), see Preliminary Document No 27.
- An interim Report on the Supplementary Budget for Financial Year L (1 July 2004-30 June 2005) was sent to Member States in February 2005 (L.c. A No 1(05)) and a Proposed Supplementary Budget for Financial Year LI (1 July 2005-30 June 2006) will be presented to Member States on 31 March and 1 April 2005 inviting them to make voluntary contributions to provide funding for activities not covered by the regular budget, see Preliminary Document No 28.
- With regard to the workload, timelines and budget implications for 2005-2006 in relation to the projects concerning the Children's Conventions, Maintenance, Adults and Cohabitation, see Preliminary Document No 29.
- Some Member States were invited to make voluntary contributions to the Maintenance Project in 2003, 2004 and 2005 and to the September 2005 Special Commission on Intercountry Adoption in 2004.
- The Secretary General with the assistance of a special consultant (HEWITT) and in consultation with the Co-ordinated Organisations is studying ways to stabilise the pension situation of the Conference.