

RULES OF PROCEDURE OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW (HCCH)

I. Scope

These Rules of Procedure apply to all meetings of the HCCH, including:

- Diplomatic Sessions (DS), including their Commissions;
- the meetings of the Council on General Affairs and Policy (CGAP);
- the meetings of the Council of Diplomatic Representatives (CDR), including the meetings of its Standing Committee;
- the meetings of Special Commissions (SC), including meetings that negotiate normative instruments and consider the practical operation of existing instruments; and
- the meetings of Experts' Groups (EG) and Working Groups (WG).

II. General Provisions

A. Convening meetings

The Secretary General shall announce the convening of a meeting sufficiently in advance of the meeting.

B. List of Participants

The Permanent Bureau (PB) shall notify Members of the proposed list of participants, including Observers, sufficiently in advance of the meeting.

C. Agenda

1. The PB shall prepare the draft agenda in consultation with the Chair, or envisaged Chair, of the meeting. The draft agenda shall identify any part of the meeting that is open only to Members (closed meeting).
2. The PB shall circulate the agenda sufficiently in advance of the meeting.
3. After the opening of the meeting, and, where relevant, after the election of the Chair and other officials, the draft agenda shall be submitted for adoption. Members can propose amendments to the draft agenda.

D. Meeting documents

Any documents relating to the meeting shall be prepared and circulated sufficiently in advance of the meeting. The PB shall give due regard to the public or non-public nature of each document.

E. Chairs and Vice-Chairs

1. Chairs and Vice-Chairs are elected pursuant to the Special Provisions in these Rules.
2. When electing Chairs and Vice-Chairs, Members shall seek to ensure geographical and gender balance.
3. The Vice-Chairs may assist the Chairs in conducting and preparing the meetings.

F. Conducting meetings

1. It is the responsibility of the Chair to conduct the meeting in a transparent, effective and efficient manner. In exercising the functions, the Chair shall remain under the authority of the meeting.
2. Points of order
 - a. A delegation may raise a point of order at any time.
 - b. When raising a point of order, a delegation may not speak to the substance of the item.
 - c. The Chair shall give a ruling on the point of order without delay.
 - d. Any delegation may appeal against a ruling of the Chair. The meeting shall decide on the appeal immediately. The ruling of the Chair shall stand unless the meeting decides to uphold the appeal.
3. Adjournment of debate
 - a. A delegation may move the adjournment of the debate on the item.
 - b. In addition to the proposing delegation, one further delegation may speak in favour of, and two delegations against, the motion, after which the meeting shall immediately decide upon the motion.
 - c. If the meeting decides in favour of the motion, the Chair shall adjourn the debate on the item.
 - d. The Chair may adjourn the debate on any item at any time, if the Chair determines that a later resumption of the debate may aid reaching consensus.
4. Closure of debate
 - a. A delegation may move the closure of the debate on the item, even if other delegations have expressed their wish to speak.
 - b. In addition to the proposing delegation, one further delegation may speak in favour of, and two delegations against, the motion, after which the meeting shall immediately decide upon the motion.
 - c. If the meeting decides in favour of the motion, the Chair shall declare the debate closed.
 - d. The Chair may close the debate on any item at any time, if the Chair determines that the item has been debated sufficiently.

5. Order of procedural motions

Subject to the provisions concerning points of order (Rule II.F.2), the following motions shall have priority over any other motion or proposal submitted to the meeting in the following order:

- a. adjournment of a debate on an item; and
- b. closure of a debate on an item.

6. Proposals

- a. Written proposals for DS, and for meetings of CGAP, CDR and SC, are encouraged to be provided to the PB in advance. The PB shall circulate these written proposals, as received, to delegations.
- b. To the extent possible, written proposals are encouraged to be provided in both official languages of the HCCH.
- c. Proposals may also be submitted orally during the meeting.
- d. Any delegation may object to a proposal being discussed, or be decided upon, if the text of the proposal has not been circulated to the delegations.

7. Taking a decision in relation to proposals

- a. When a proposal is moved, the meeting shall decide on the proposal.
- b. If two or more proposals relate to the same question, the meeting shall, unless it decides otherwise, take a decision on the proposals in the order in which they have been submitted.

8. Reconsideration of proposals

- a. A delegation may move a motion to reconsider an adopted or rejected proposal.
- b. In addition to the moving delegation, one further delegation may speak in favour of, and two delegations against, the motion, after which the meeting shall immediately decide upon the motion to reconsider.
- c. If the meeting decides in favour of the motion to reconsider, the Chair shall open immediately the reconsideration of the adopted or rejected proposal.

G. *Participating in meetings*

- 1. No one may take the floor without having previously obtained the permission of the Chair.
- 2. The Chair may remind a speaker that the remarks must be, and remain, relevant to the subject under discussion.

Time limit on delegations

- 3. The Chair may decide to limit the time to be allowed to each delegation and the number of times each delegation may speak on any one item.

4. When debate is limited and a delegation has exceeded the allotted time, the Chair shall call the delegation to order without delay.
5. If necessary, the Chair may grant each delegation the right to speak on an item only once.

Closing the List of Speakers

6. The Chair may declare the List of Speakers closed.
7. The Chair may nevertheless accord a right of reply to any delegation if an observation made after the closure of the List of Speakers makes such a course of action desirable.

H. Taking decisions at meetings

1. Only DS and meetings of CGAP and CDR take decisions.

Quorum

2. The majority of Members constitutes quorum.

Consensus principle

3. To the furthest extent possible, all decisions shall be taken by consensus.

Voting at meetings

4. If exceptionally it is not possible to reach consensus, decisions shall be taken by a vote. If a decision must be taken by a vote, then that decision shall be made by a majority of the votes cast by delegations.
5. Abstentions shall not be counted as votes.
6. Each delegation shall have one vote. A delegation may not represent and vote for another delegation.
7. The meeting shall vote by show of hands. The Chair, or any delegation, may request to take the vote by a rollcall.
 - a. A rollcall shall be taken in the alphabetical order of the French names of the States or Member Organisations participating in the meeting, beginning with the delegation designated by the Chair.
 - b. Each delegation shall be called and reply "for", "against" or "abstention", or shall make known the delegation's choice if opposing proposals are put before the meeting.
8. Certain matters may be decided by methods other than those mentioned in Rule II.H.7, such as a secret ballot.
9. After the Chair has announced the beginning of voting, no delegation may interrupt the voting except on a point of order in connection with the conduct of the voting.
10. The Chair may permit each delegation to explain the vote of the delegation, either before or after the voting.

I. Taking decisions in between meetings (distance decision-making process)

1. In an urgent and exceptional case:
 - a. the Secretary General, together with the Chair of CGAP, and after consultations with Members; or
 - b. half of the Members,

may submit that a question should be decided using a distance decision-making process.
2. The submission shall be communicated by the PB to all Members. This submission shall include an explanation of the question, including the proposed decision, the urgent and exceptional nature of the case, and any HR and financial implications of the decision.
3. After a short period of inclusive consultations, the Secretary General shall initiate the distance decision-making process, indicating whether:
 - a. the proposed decision can be made using the silence procedure in Rule II.I.4; or
 - b. by its nature, the question cannot be decided by a silence procedure and the distance voting procedure in Rule II.I.6 must be commenced.
4. If the proposed decision can be made using the silence procedure, then in the absence of any objection against the proposed decision within 15 days after the silence procedure was initiated, the proposed question will have thereby been decided.
5. If the silence procedure is initiated and an objection against the proposed decision is raised, the Secretary General shall initiate a further round of inclusive consultations with Members to establish whether there may be sufficient prospect of reaching consensus. If this further consultation with Members indicates that there is:
 - a. sufficient prospect of reaching consensus, the Secretary General shall initiate a further silence procedure in accordance with Rule II.I.4;
 - b. no sufficient prospect of reaching consensus, then for matters commenced under:
 - i. Rule II.I.1.a, the Secretary General may initiate a distance voting procedure in accordance with Rule II.I.6 or may decide not to proceed at all;
 - ii. Rule II.I.1.b, the Secretary General shall initiate the distance voting procedure in accordance with Rule II.I.6.

6. If the Secretary General commences the distance voting procedure, then any vote or other response must be provided within 10 days after the date the procedure commenced. The matter is decided if at least:
 - a. a majority of Members either voted, responded with an abstention or otherwise acknowledged the commencement of the distance voting procedure; and
 - b. a majority of votes cast is in favour of the decision.
7. The Secretary General shall communicate to Members immediately the outcome of the vote, specifying how each Member voted.

J. Rules for Observers

1. Observers
 - a. States, intergovernmental organisations and international non-governmental organisations may be invited to attend meetings as Observers.
 - b. Non-Member Contracting Parties attending an SC on the practical operation of an HCCH Convention to which they are a Party, attend these meetings as Contracting Party, not as Observers.
2. Establishing a List of Observers
 - a. CGAP shall establish a List of Observers.
 - b. For each intergovernmental and international non-governmental organisation to be listed, the List of Observers shall enable the Members to access information concerning each organisation.
3. Maintaining the List of Observers
 - a. CGAP shall maintain the List of Observers by:
 - i. reviewing it; and
 - ii. deciding to amend it by adding or removing Observers, as appropriate.
 - b. CGAP reviews the List of Observers annually as part of its meeting.
 - c. States whose admission as a new Member State has been decided upon (Art. 2(2) of the Statute), but whose admission has not yet become effective (Art. 2(3) of the Statute) are automatically:
 - i. added to the List of Observers; and
 - ii. removed from the List of Observers when the admission becomes effective.
4. Inviting Observers
 - a. The Secretary General shall send invitations to Observers sufficiently in advance of the meeting. The number of invitations sent to Observers shall be appropriate when compared to the size of the meeting.

- b. Invitations shall include a reference to the applicable Rules of Procedure.
 - c. Where applicable, the invitations to Observers shall be issued in consultation with the Chair of the meeting.
5. Participation in meetings
- a. Members may object to the participation of Observers in a meeting. Objection should, to the extent possible, be made in advance of the meeting.
 - b. Observers may participate in, and intervene during, the meeting. They must comply with these Rules of Procedure, any other Rules as well as all instructions given by the Chair.
 - c. Observers do not participate in the decision-making process.
 - d. Members, and, where relevant, Contracting Parties, shall have priority over Observers. Among the Observers, States shall have priority over intergovernmental and international non-governmental organisations. These priority rules are subject to any instructions given by the Chair.
 - e. At any time, the Chair may declare the meeting, or parts thereof, to be closed to Observers.
 - f. Those representing Observers shall not also represent any other Observers, Member States or, where relevant, Contracting Parties.
 - g. In case of a conflict of interest, or a non-compliance with the Chair's instructions, the meeting may, upon request by the Chair, decide to exclude an Observer or the Expert representing the Observer. If the meeting decides to exclude an Observer or an Expert representing the Observer, the Chair may recommend to CGAP the removal of the Observer from the List of Observers.

III. Special Provisions

A. Diplomatic Sessions, including Commissions of the Sessions

1. Convocation

The convocation of DS is governed by Article 4 of the Statute.

2. Credentials

- a. Credentials for the heads of delegation, and their authorised substitutes, of all participating Members shall be submitted to the Secretary General, if possible, no later than seven days before the DS.
- b. The credentials shall be issued by the Head of State or Government, the Minister of Foreign Affairs, or another competent authority of the Member.

3. Opening of the Diplomatic Session

The President of the Netherlands Standing Government Committee on Private International Law opens the DS.

4. Chairs and Vice-Chairs of the Diplomatic Session
 - a. Plenary meetings of the DS shall be chaired by the President 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 DS as well as the Chairs and Vice-Chairs of the Commissions of the Session, applying Rule II.E.
5. Commissions of the Session
 - a. A Commission of the Session finalises a draft normative instrument. Where multiple draft normative instruments are to be finalised as part of one DS, one Commission of the Session is established for each draft normative instrument. In case of multiple Commissions of the Session, each Commission shall be numbered.
 - b. Commission(s) of the Sessions conduct their work as first and second readings. The rules concerning proposals, including decisions on proposals and the reconsideration of proposals, apply accordingly (Rules II.F.6 to 8).
 - c. With the second reading of the draft normative instrument, the work of a Commission of the Session ends.
 - d. A Commission of the Session produces a final draft normative instrument.
6. Final Act of a Diplomatic Session
 - a. On the final day of the DS, the Plenary meets for the closing ceremony of the DS.
 - b. During the closing ceremony, select parts of the final draft normative instrument (including the Preamble, some key Articles and the final Article) are read for a third time. This third reading is ceremonial in nature and has no legal effect.
 - c. The delegates of all participating Members may sign the final draft normative instrument as Final Act. Observers cannot sign the Final Act.
 - d. The signing of the Final Act records the adoption of the final draft normative instrument and expresses the delegations' agreement that the text reproduced in the Final Act is indeed the result of the negotiations.
 - e. The plenary meeting of the DS may decide that *toilettage* of the Final Act remains possible even after the signing of the Final Act. This decision must be recorded expressly in the Minutes of the DS. Any form of *toilettage* is to be avoided as much as possible.
 - f. The date of the signing of the Final Act determines the date of the normative instrument.
7. The Session's Commission on General Affairs and Policy
 - a. CGAP may convene and sit as part of a DS. If so, then it sits as the Session's Commission on General Affairs and Policy.

- b. The Session's Commission on General Affairs and Policy is chaired by the Chair of CGAP.

B. Council on General Affairs and Policy

1. Chair and Vice-Chair

- a. CGAP shall be chaired by a delegate or expert of a Member.
- b. CGAP shall elect the Chair upon a proposal submitted by the President of the Netherlands Standing Government Committee. The proposal is prepared in consultation with the Secretary General and the incumbent Chair of CGAP, applying Rule II.E.
- c. CGAP shall, upon the proposal of its Chair, elect one Vice-Chair.
- d. The term of office of the Chair and Vice-Chair is set by CGAP. The term of office may be renewed.
- e. If a Chair does not complete the term of office, the Vice-Chair will become acting Chair until the next meeting of CGAP, with CGAP deciding on the new Chair and Vice-Chair.

C. Council of Diplomatic Representatives, including its Standing Committee

1. Chair and Vice-Chair

- a. CDR shall be chaired by the Minister of Foreign Affairs of the Kingdom of the Netherlands (Art. 10(3) of the Statute). In case the Minister of Foreign Affairs of the Kingdom of the Netherlands is unable to attend, CDR shall be chaired by the designated representative.
- b. The Standing Committee of CDR shall be chaired by a member of CDR. The Chair is elected in accordance with Article 2(2) of the *Regulations on Financial Matters and Budgetary Practices of the Hague Conference on Private International Law*.
- c. The Standing Committee of CDR shall, upon the proposal by the Chair, elect one Vice-Chair. The Vice-Chair shall be a member of CDR.

2. Approval of the Budget

Special rules concerning the approval of the Budget apply (Art. 8 of the Financial Regulations).

D. Special Commissions (Art. 8 of the Statute)

1. Chair and Vice-Chairs

- a. SC shall be chaired by a delegate of a Member.
- b. SC shall elect the Chair upon a proposal submitted by the President of the Netherlands Standing Government Committee. The proposal is prepared in consultation with the Secretary General and the incumbent Chair of CGAP, applying Rule II.E.

- c. The SC shall, upon the proposal of the Chair of the SC, elect one or more Vice-Chairs, applying Rule II.E.
- 2. SC do not take decisions but develop outcomes in the form of Conclusions and Recommendations for approval by CGAP.

E. Experts' and Working Groups

- 1. EG and WG are established by CGAP.
 - a. EG are exploratory bodies that may research, analyse or consider any matter within their mandate.
 - b. WG are bodies that develop proposed solutions which can take forms such as, but not limited to, draft provisions, principles or guides.
- 2. CGAP shall define the mandate of every EG and WG, including any expected outcomes as well as any procedure to be applied by the EG or WG that CGAP may deem appropriate.
- 3. EG and WG do not take decisions but develop outcomes in the form of Conclusions and Recommendations for approval by CGAP.

IV. *Miscellaneous Provisions*

To fill any gap in these Rules of Procedure, Members revert to existing rules or usages of the HCCH (Art. 12 of the Statute). If such rules or usages do not exist, Members may fill a gap through the analogous application of existing rules or by reverting to general principles.

V. *Review of, and amendments to, the Rules of Procedure*

- A. The Rules may be reviewed, or amended, in whole or in part, by a decision taken by CGAP.
- B. Any Member as well as the Secretary General may submit to CGAP a written proposal for amending these Rules.