

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 14 de février 2004
à l'intention de la Commission spéciale d'avril 2004
sur les affaires générales et la politique de la Conférence*

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for the attention of the Special Commission of April 2004
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 2003 until March 2004. 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 in comparison to 62 at the end of April 2002:
 - Since 1 April 2003, two States have become Members of the Conference, namely, Iceland and Ukraine.
 - Costa Rica (2002) and Paraguay (2003) have been admitted but still need to accept the Statute. This should take place in the near future.
 - The admission of Zambia has been submitted to a vote.
- 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 course of the year and a meeting with an Informal Advisory Group held from 21 to 23 January 2004, the Secretary General will present Recommendations to the Special Commission on General Affairs and Policy of the Conference of April 2004 with respect to the admission of the European Community.

Global coverage of Hague Conventions

- There are now 118 (April 2003: 117) 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 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) also 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

- During the Spring of 2004, the Conference will launch its new Website. This modernised site will be database-operated thus facilitating updating and increasing the interaction with users. Furthermore, it will be equipped with a research engine covering the entirety of the database. The current Website receives more than 19,000 hits per day.
- During the last year, the Secretary General and Members of the Permanent Bureau made official visits to, lectured or gave seminars in: Bulgaria, Canada, China, Costa Rica, France, Germany, Greece, Guatemala, Ireland, Italy, Japan, Luxembourg, Malaysia, Malta, Monaco, Morocco, the Netherlands, New Zealand, Panama, Spain, Tunisia, the United Kingdom, the United States and Vietnam.
- During the past 12 months the Permanent Bureau welcomed interns and officials on secondment from the following countries: Australia, Brazil, Canada, Finland, France, Greece, Hungary, Indonesia, Mexico, Monaco, the Netherlands, the Russian Federation, Spain, Sweden and the United States.
- On 31 October 2003 the Conference celebrated its 110th Anniversary. President Ferenc Mádl of Hungary, a former delegate to the Hague Conference, marked the occasion by giving a speech on "Milestones on the Road of Private International Law Developments".
- Since September 2003, a flag of the Conference reproduces the logo that symbolises both the increasingly global coverage of the Conference, and its mission and working method: the progressive development of universally acceptable solutions, drawing from a diversity of legal traditions. The use of the logo on a flag of the Conference, the Website and all official correspondence and documentation should help increase the visibility of the Conference.
- In June 2003, 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 to expand the Academy Building is due to start in November 2004.

Strategic Direction 2

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

The Conference will continue 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 5 to 16 May 2003, the first Special Commission on the Maintenance Project met to begin discussions.
- From 27 to 30 October 2003, a Sub-group of the Drafting Committee on the Maintenance Project met to produce a discussion paper.
- From 12 to 16 January 2004, the Drafting Committee on the Maintenance Project met to produce a working draft of a Convention to be submitted to the attention of the second Special Commission.
- From 7 to 18 June 2004 the second Special Commission meeting on the Maintenance Project will convene for the Maintenance Project.
- The Permanent Bureau, assisted by an informal working group, has completed an informal working process with a view to preparing a text on jurisdiction and recognition and enforcement of judgments in civil and commercial matters (the Judgments Project). Three meetings of the informal working group were held (from 22 to 25 October 2002, from 6 to 9 January 2003 and from 25 to 28 March 2003). The text of the informal group formed the basis of the work Special Commission on the Judgments Project that met from 1 to 9 December 2003.
- From 21 to 27 April 2004 a Special Commission meeting will convene for the Judgments Project followed by a Diplomatic Conference to be held, if possible at the beginning of 2005.

Post-Convention services²

- The Special Commission on the practical operation of the *Apostille*, Evidence and Service Conventions met from 28 October to 4 November 2003.
- A new volume of the *Proceedings* ("Actes et documents") on the *Hague Convention of 13 January 2000 on the International Protection of Adults* was released in September 2003.
- A new edition of the Collection of Hague Conventions, including the 2000 *Convention on the International Protection of Adults* and the newly adopted *Convention on the Law Applicable to Certain Rights in respect of Securities held with an Intermediary* was released in December 2003.
- In December 2003, Part I and Part II of the Guide to Good Practice under the 1980 International Child Abduction Convention were published in book form. Part I deals with Central Authority Practices and Part II with Implementation Measures. Work to prepare Chapters on: (1) Preventive Measures; (2) Access/Contact; and, (3) the Enforcement of Return Orders, is underway.
- The International Child Abduction Database (INCADAT) Website now includes 575 summaries in English (April 2003: 495) and French (April 2003: 455).
- The Permanent Bureau has completed its pilot project, involving 16 Central Authorities under the 1980 Convention, on the iChild software (an electronic case management system donated by WorldReach (Canada) in relation to international child abduction cases) with a view to help the gathering of statistics for the purpose of the International Child Abduction Statistical Database (INCASTAT). A Report on iChild Site Trials will soon be released.
- The Permanent Bureau published Volumes V and VI of the Judges' Newsletter on International Child Protection and continues to be involved in the organisation of judicial seminars.

² Please refer to Prel. Doc. No 12 for further details.

- The Permanent Bureau continues its work on Direct International Judicial Communications under the 1980 Convention.
- The Special Commission on the practical operation of the *Apostille*, Evidence and Service Conventions has welcomed the draft version of the new practical Handbook on Service and invited the Permanent Bureau to finalise the new edition taking into account the Conclusions and recommendations adopted by the Special Commission. The latter has further recommended the production of a new edition of the practical Handbook on Evidence. The Special Commission has also proposed the production of a Handbook on *Apostille*, subject to proper funding.

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 Noordwijk (Governments of Germany and United States), 19-22 October 2003, and Malta (Government of Malta), 14-17 March 2004 and national training sessions in Bulgaria, 2-3 June, 13-14 October 2003 and 17-19 March 2004 in this latter case in co-operation with the Deutsche Stiftung Für Internationale Rechtliche Zusammenarbeit (Germany).

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, Judgments Project and Malta Judicial Conference), the Conference received during the last year (1 April 2003 – 31 March 2004) support by way of contributions or donations from the following States: Australia, Austria, Canada, China, Croatia, Czech Republic, Cyprus, Denmark, Finland, Germany, Ireland, Malta, Monaco, Netherlands, New Zealand, Norway (committed), Spain, Sweden, Switzerland, United Kingdom (England and Wales) and the United States of America (see L.c. A No 14(03) and L.c. ON No 3(04) and Prel. Doc. No 17).
- In April 2003, the Conference concluded a Memorandum of Understanding with the International Centre for Missing & Exploited Children (ICMEC / NCMEC) the objective of which is to raise funds for both organisations to help fund projects of mutual interest.
- In February 2004, the Conference concluded an agreement with the National Center of Legal Information of the Republic of Belarus on the creation of a documentation centre to disseminate HCCH documents and publications.
- The Group of Thirty (G30) has recommended that "The Hague [Securities] Convention be ratified as quickly as possible by as many nations as possible" (Group of Thirty (G30), Global Clearing and Settlement – A Plan of Action, January 2003 (Recommendation 15)).
- Secondments of State officials were arranged with Australia (16 months – completed in July 2003), Monaco (2 secondments of 6 months – completed in August 2003) and Sweden (April-May 2003).

- One *stagiaire* was funded by *l'École du Barreau du Québec* and the Canadian Federal Government (6 months – completed in August 2003).

Partnerships with academic and research institutes

- In 2003, New York University provided two summer students.
- During the last 12 months different research projects have been undertaken and / or completed with, in particular, Cardiff Law School (United Kingdom), the *Faculté de droit, Université Jean Moulin*, Lyon (France) and the Academy of European Law (Germany).

Strategic Direction 3

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

New working methods

- Since October 2003, a computer-supported drafting system has been implemented in the meeting facilities of the Permanent Bureau. This development and resulting savings has been made possible only through voluntary contributions of Member States.
- A Workshop was held before the Special Commission on the practical operation of the *Apostille*, Evidence and Service Conventions with a view to examining the means, possibilities and advantages of using modern technologies in subject matters falling within the scope of the three Conventions.
- A regional workshop of the Americas was held in Orlando, Florida, in August 2003 in order to assist several States of the region in their preparation for the Maintenance Project. After the meeting, a list serve has been created by the National Law Centre for Inter-American Free Trade to promote exchanges of views among the participants.
- A Sub-group of the Drafting Committee and the Drafting Committee on the Maintenance Project met after the first Special Commission to produce a working draft of a Convention.
- Since October the Maintenance Project's Applicable Law Working Group has been discussing its work by way of a list serve.
- Two informal groups on the Maintenance Project, namely on Administrative Co-operation and on Direct Jurisdiction are working through e-mails and telephone conferences.

Strategic Direction 4

Increasing communication and co-operation with other international organisations

Increasing communication

- The Conference is modernising its Website - which is receiving more than 19,000 hits a day - with a view to facilitating bilingual usage, and making all the information accessible through a database. This project should be completed before the end of Spring 2004.
- The International Child Abduction Database (INCADAT) has more than 1,744 registered users and receives more than 1,000 hits a day.

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 for Economic Co-operation and Development (OECD)
- *Organisation pour l'harmonisation en Afrique du droit des affaires* (OHADA)
- 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 Trade Organisation (WTO)

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)
- Conference of Central Securities Depositories
- Euradopt
- 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)
- 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)
- *Union internationale du Notariat Latin* (UINL)

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. Subject to appropriate funding, a plan of action will be implemented over the coming years addressing different issues on a priority basis.
- Since September 2003, one of the two servers donated by Canada in 2002 operates Windows Terminal Server 2003 system permitting the Permanent Bureau to operate simultaneously its computer system from and at its office and the Peace Palace during meetings held there, thus saving time and resources.
- During the coming year, the Permanent Bureau will need to invest in new computer technology in order to modernise its library database.
- Within the next two years the Permanent Bureau will need to invest in new computer technology in order to replace and modernise its current electronic document management system.
- The Permanent Bureau has hired a part-time filing clerk to attend to the bottlenecks in the filing system and to eventually implement some of the recommendations of the above-mentioned study.

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

- The Special Commission on General Affairs and Policy of the Conference, which will meet from 6-8 April 2004, will have before it a Note entitled "Restructuring the Conference's Budget; Securing Stable Funding for the Work of the Hague Conference", the Draft Budget proposal and the Supplementary Budget proposal for Financial Year L (1 July 2004-30 June 2005), see Preliminary Documents No 15A, 15B and 16 (see Strategic Plan, paragraph [427]).
- With regard to the workload, timelines and budget implications for 2004-2005 in relation to the projects concerning the Children's Conventions, Maintenance, Adults and Cohabitation, see Preliminary Document No 12.
- Member States were invited to make voluntary contributions to the Supplementary Budget both in July 2003 (L.c. ON No 14(03)) and in February 2004 (L.c. A No 3(04)).
- Some Member States were invited to make voluntary contributions to the Maintenance Project in 2003 and 2004.
- Member States were invited to make voluntary contributions to the Judgments Project in December 2003 (L.c. A No 54(03)).
- The Secretary General with the assistance of a special consultant (PRASA HEWITT) is studying ways to stabilise the pension situation of the Conference.