

Title	1965 Service, 1970 Evidence, and 1980 Access to Justice Conventions: Plans for the next meeting of the Special Commission
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Author	PB
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Mandate(s)	C&D No 39 of CGAP 2023
Objective	To report on the ongoing preparations for the upcoming meeting of the Special Commission on the Practical Operation of the 1965 Service, 1970 Evidence, and 1980 Access to Justice Conventions
Action to be Taken	For Decision <input checked="" type="checkbox"/> For Approval <input type="checkbox"/> For Discussion <input type="checkbox"/> For Action / Completion <input type="checkbox"/> For Information <input checked="" type="checkbox"/>
Annexes	N/A
Related Documents	Prel. Doc. No 16 of December 2023

1965 Service, 1970 Evidence, and 1980 Access to Justice Conventions: Plans for the next meeting of the Special Commission

I. Introduction

1. As mandated by the Council on General Affairs and Policy (CGAP) at its 2021 meeting,¹ the Permanent Bureau (PB) continues its preparations for the next meeting of the Special Commission (SC) on the Practical Operation of the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (1965 Service Convention), the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (1970 Evidence Convention), and the *Convention of 25 October 1980 on International Access to Justice* (1980 Access to Justice Convention).
2. This document reports on plans for the upcoming meeting of the SC. Section II provides information about the proposed scheduling and duration of the meeting. Section III sets out the preparatory work being undertaken by the PB, including the circulation of questionnaires and the updating of the *Practical Handbook on the Operation of the Service Convention* (Service Handbook), and the *Practical Handbook on the Operation of the Evidence Convention* (Evidence Handbook), and provides a list of some of the topics for discussion during the meeting. Section IV sets out proposals for CGAP's consideration.

II. Scheduling

3. In light of budgetary considerations, at its 2023 meeting, CGAP decided to postpone the provisionally scheduled July 2023 meeting of the SC to the earliest possible date in Financial Year 2024-2025.² In line with CGAP's 2023 decision, and taking into account the overall work programme of the HCCH, the PB proposes that the next meeting of the SC be held from 2 - 5 July 2024, for a duration of three and a half days.³ The allocated time for this meeting would be similar in length to the last meeting of the SC on these Conventions, which was held in 2014.

III. Preparatory work

4. Pursuant to CGAP's mandate, the PB has progressed a range of work to prepare for the next meeting of the SC, as outlined below.

A. Circulation of questionnaires

5. In December 2022, the PB circulated questionnaires on each of the three Conventions to Members and Central Authorities designated by Contracting Parties to the Conventions.⁴ Specific questions on the practical operation of the Conventions were directed to Contracting Parties. The

¹ See C&D No 36 of CGAP 2021. See also C&D No 32 of CGAP 2022 and C&D No 39 of CGAP 2023, all available on the HCCH website at www.hcch.net under "Governance" then "Council on General Affairs and Policy" then "Archive (2000-2023)".

² C&D No 32 of CGAP 2022 provisionally scheduled the meeting for July 2023; this was postponed by CGAP in 2023 (C&D No 39).

³ It is proposed that the meeting would commence on Tuesday morning, 2 July, and would conclude after a half-day on Friday, 5 July 2024.

⁴ "Questionnaire relating to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters", Prel. Doc. No 1 of December 2022; "Questionnaire relating to the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters", Prel. Doc. No 3 of December 2022; and "Questionnaire relating to the Convention of 25 October 1980 on International Access to Justice", Prel. Doc. No 5 of December 2022, all available on the HCCH website at www.hcch.net under "Service Convention" / "Evidence Convention" / "Access to Justice Convention" then "Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions".

questionnaires for non-Contracting Parties were aimed at discovering whether these States had considered joining the Convention(s).

6. The responses to the questionnaires provided by Contracting Parties have supported the work on updates to the forthcoming 5th editions of the Service and Evidence Handbooks and will be used to inform the agenda of the meeting of the SC. The PB will circulate a compilation and a summary of the responses, including an analysis of the data provided by Contracting Parties, ahead of the meeting.
7. The PB thanks Members and Contracting Parties that have already submitted responses to the questionnaires and encourages the completion and submission of any outstanding questionnaires as soon as practicable.

B. Update of the Handbooks

8. The PB has been working on updates to both the Service and Evidence Handbooks.⁵ These updates include information received in response to the questionnaires, additional contributions received from stakeholders, and information collected through the PB's monitoring of the operation of the Conventions. The updates refer to new case law, legislation, and literature, including information on the use of technology for the transmission and execution of requests. In addition, the *Guide to Good Practice on the Use of Video-Link under the Evidence Convention* has also been incorporated into the Evidence Handbook with the aim of producing a single text for practitioners and other users of the Evidence Convention.
9. In October and November 2023, respectively, the PB circulated draft updated versions of the Service and Evidence Handbooks to Members and to Central Authorities of Members for comment, with a ten-week consultation period. Comments received in response to this consultation may also be incorporated into the Handbooks which will be submitted to the SC for review. These further revised versions will be made available in English, French, and Spanish to Members and Contracting Parties to the Conventions ahead of the meeting of the SC. It is proposed that the Handbooks be submitted to CGAP 2025 for final approval. However, if the Handbooks are finalised well in advance of CGAP 2025, it is proposed that they be submitted to Members for final approval through a written procedure. This would involve the circulation of the Handbooks to Members and, in the absence of any objection within one month, the Handbooks would be taken to be approved.⁶

C. Development of e-Country Profiles

10. The development of e-Country Profiles, including for the 1965 Service and 1970 Evidence Conventions, was welcomed by CGAP at its 2023 meeting.⁷ The e-Country Profile is a standardised document that will be available to Contracting Parties to complete, view and update electronically. The e-Country Profile is intended to assist with the practical operation of selected Conventions by facilitating the exchange of information between Contracting Parties and by providing information about Central Authorities and other authorities in Contracting Parties.
11. The PB has prepared Prel. Docs for the meeting of the SC which contain draft e-Country Profiles for the 1965 Service and the 1970 Evidence Conventions. These will be provided to Members and Contracting Parties for consultation in advance of the meeting of the SC with a view to them being further considered by the SC. The PB proposes that the e-Country Profiles be approved alongside

⁵ C&D No 36 of CGAP 2021, available on the HCCH website at www.hcch.net (see path indicated in note 1).

⁶ This method of approval has been proposed for previous HCCH publications. For example, a written procedure was proposed for the draft *Practical Guide on cross-border recognition and enforcement of agreements reached in the course of family matters involving children* (C&D No 10 of CGAP 2020, available on the HCCH website at www.hcch.net (see path indicated in note 1).

⁷ C&D No 48 of CGAP 2023, available on the HCCH website at www.hcch.net (see path indicated in note 1).

the Handbooks either at CGAP 2025 or, if completed well in advance of CGAP 2025, through the same written procedure outlined above. The draft e-Country Profiles for each Convention have been designed to be as consistent as possible, in terms of form and structure, with existing Country Profiles for the 2000 Adults Convention and the 1996 Child Protection Convention, which were the latest two considered by Members.

D. Establishment of Working Groups

12. To facilitate the completion of the 5th editions of the Handbooks and the e-Country Profiles, the PB proposes the establishment of two Working Groups (WG). One WG would be dedicated to the Handbook and e-Country Profile relevant to the Service Convention and the second WG would be dedicated to the Handbook and e-Country Profile relevant to the Evidence Convention. The WGs would be comprised of individuals representing a variety of geographical regions who would work to discuss and refine updates to the Handbooks and e-Country Profiles. Individuals could also participate in both WGs if they were interested in doing so. The WGs would be engaged in the lead-up to and following the SC meeting and would be consulted on the Handbooks and e-Country Profiles before their submission for final approval. It is envisaged that the WGs would work online and would not be required to attend in-person meetings.

E. Bilateral meetings between the PB and Central Authorities

13. The PB has invited National Organs and / or their respective Central Authorities designated under the three Conventions to bilateral meetings to discuss the upcoming SC. The initial invitation has been limited to Central Authorities of Members. The PB has organised bilateral meetings for those officials who have indicated an interest in meeting. The purpose of these meetings is to discuss the practical operation of the Conventions and investigate possible challenges that Contracting Parties may experience with the application of the Conventions. These meetings also provide the opportunity for Contracting Parties to further discuss issues raised in the questionnaires and to discuss potential topics for the SC meeting.

F. Potential topics and the draft agenda

14. The PB is compiling a list of potential topics that could be discussed at the SC meeting. This list is not exhaustive and is being regularly updated. The topics outlined below reflect the latest developments and challenges experienced by Contracting Parties regarding the operation of the Conventions. This list also reflects information provided to the PB in response to the questionnaires and through informal consultations with Central Authorities.
15. Potential topics include:
 - “civil or commercial matters” as referred to in the Service and Evidence Conventions;
 - best practice for Central Authorities and other agencies involved in the practical operation of the Conventions;
 - the current use and operation of Article 10 of the Service Convention;
 - “contracting out” of the Service Convention;
 - the current use and operation of Chapter II of the Evidence Convention;
 - a proposed new Form for Article 17 of the Evidence Convention;
 - the electronic transmission of requests and use of technology including video-link; and
 - e-Country Profiles for the Service and Evidence Conventions.

IV. Proposals for CGAP

16. Based on the above report, the PB proposes the following Conclusions and Decisions:

- CGAP welcomed the PB's preparations for the upcoming meeting of the SC.
- CGAP supported the scheduling of a three and a half day meeting of the SC in the first week of July 2024.
- CGAP approved the establishment of two WGs consisting of representatives from a variety of geographical regions to review and refine updates to the Handbooks and e-Country Profiles relevant to the Service and Evidence Conventions, respectively. The WGs would be engaged online in the lead-up to and following the meeting of the SC.
- CGAP encouraged Members to nominate delegates for one or both WGs. Nominations should be provided to the PB before 15 March 2024.
- CGAP decided that following the SC, and upon finalisation by the WGs, the draft Handbooks and the e-Country Profiles would be submitted to CGAP 2025 for final approval. If the Handbooks and the e-Country Profiles were finalised well in advance of CGAP 2025, CGAP decided that they could be approved through a written procedure. In the absence of any objection within one month after the circulation of these documents to Members, the Handbooks and e-Country Profiles will be taken to be approved; in the case of one or more objections, the PB will immediately notify the Members of any objections and any document not approved will be submitted to CGAP at its 2025 meeting.