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FORUM INTERNATIONAL SUR LA NOTARISATION ET L'APOSTILLE ELECTRONIQUES (30 ET 31 MAI 2005)

Note établie par Christophe Bernasconi, Premier secrétaire

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INTERNATIONAL FORUM ON E-NOTARIZATION AND E-APOSTILLES (30 AND 31 MAY 2005)

Note drawn up Christophe Bernasconi, First Secretary

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INTERNATIONAL FORUM ON E-NOTARIZATION AND E-APOSTILLES
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International Forum on e-Notarization and e-Apostilles
(30 and 31 May 2005)

The Hague Conference on Private International Law (HCCH) and the International Union of Latin Notaries (IULN) are jointly organising an International Forum on *e-Notarization* and *e-Apostilles*. This Forum will be hosted by the National Notary Association of the United States of America (NNA) and will be held on 30 and 31 May 2005 in Las Vegas (Bally's).

The Special Commission of October / November 2003 on the Practical Operation of the Apostille, Evidence and Service Conventions had identified four stages in the issuing of an Apostille in respect of which the application of modern technology might be considered. It also recommended that "States party and the Permanent Bureau should work towards the development of techniques for the generation of electronic Apostilles" (Recommendation No 24). This Forum initiative is thus held with a view to beginning action in line with this Recommendation.

The *goals* of the Forum may be summarised as follows:

1. Conducting a representative international survey of technologies for e-Notarization currently available or in the process of being developed;

2. Assessment of these technologies, in particular with respect to their possible relevance for e-Apostilles;

3. Legal analysis of the impact of these technologies on the Apostille Convention. In particular: do electronic public documents, in particular notarial acts and official certificates, fall within the scope of the Convention? Does the current framework of the Convention allow for issuance and circulation of e-Apostilles?

The envisaged *program* may be summarised as follows:

The first day will be mainly technology-oriented and should provide a representative international survey of technologies for e-Notarization that are currently available or in the process of being developed. Also, we hope to have live demonstrations illustrating the issuance and cross-border transmission of e-Apostilles. In this respect, a sequence of presentations addressing the following fact patterns are envisaged: 1) paper original of a public document which is subsequently scanned, issuance of an e-Apostille, indexing of the Apostille in an e-Register, and transmission of the apostillized document abroad by e-mail; 2) same as previous, except that the underlying public document is in electronic form from the beginning (e.g., an official electronic certificate of a patent application); 3) private act under Article 1(2)(d) of the Convention, the act then being authenticated electronically by a notary and sent abroad by email; 4) same as previous, except that the analysis relates to an electronic authentic act. It goes without saying that the presentations will not serve to promote the use of specific technology and instead will all be based on the principle of technical neutrality.

The second day should provide ample opportunity for a legal analysis of the main issues raised by the use of modern technology in the context of notarization and the Hague Apostille Convention. This analysis will particularly focus on possible legal requirements and regulatory standards for electronic notarization, on the question whether electronic public documents, in particular notarial acts and official certificates, fall within the scope of the Convention, and whether the current framework of the Apostille Convention allows for implementation and circulation of e-Apostilles. The format for the second day is likely to involve break-out-sessions in the morning and plenary discussions in the afternoon.

Also, the aim is to adopt a set of written *conclusions* at the end of the Forum.

The working languages of the Forum will be *English*, *French* and *Spanish*.

Invitations to participate in the Forum were sent by the Permanent Bureau to all Member States of the HCCH as well as to all non-Member States that are Contracting States of the Hague Apostille Convention. The IULN and the NNA sent invitations to their respective constituencies. The Forum will also be open to experts who are not designated by any of the three organisations involved but who wish to participate in their private capacity (*e.g.*, practicing Notaries with specific knowledge of the subject matter). The goal is to have as broad, international and representative an audience as possible. The HCCH, IULN and the NNA will also use their respective websites to advertise and promote the Forum. Finally, an information brochure will be produced and widely distributed.

All participants will pay for their own travel and hotel costs. Also, a *registration fee of 195 US$* per participant will be charged (except to presenters and speakers designated by the HCCH, the IULN or the NNA). ***In the case of experts designated by HCCH Member States a fee waiver will apply to at least one and, depending on the final number of Member States represented at the Forum, possibly two experts.*** For experts from non-Member States, the registration fee will not be waived.

Designations of experts from HCCH Member States have to be sent to the Permanent Bureau ***before Monday, 18 April 2005***.[1] Experts from non-Member States of the HCCH who wish to participate in the Forum will register online by using the following web-portal: < www.nationalnotary.org/conf/HCCH >

For more information about the Forum, please contact First Secretary Christophe Bernasconi (cb@hcch.nl, with a copy to mc@hcch.nl).

[1] There is no limit on the number of experts a State may designate; however, in the case of multiple designations, HCCH Member States are kindly requested to clearly identify the name of the expert for whom the registration fee is to be waived, as well as the name of the second expert for whom the registration fee may be waived (depending on the final number of HCCH Member States participating). The registration fee will not be waived for experts designated after 18 April 2005.