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HAGUE CONFERENCE ON
PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE
DE DROIT INTERNATIONAL PRIVÉ

PROJET DE RECOMMANDATION A LA VINGTIEME SESSION DE LA CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE RELATIVE A L'ADMISSION DE LA COMMUNAUTE EUROPEENNE AU SEIN DE LA CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE

établi par le Bureau Permanent

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DRAFT RECOMMENDATION TO THE TWENTIETH SESSION OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW ON THE ADMISSION OF THE EUROPEAN COMMUNITY TO THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

drawn up by the Permanent Bureau

Document préliminaire No 21A de février 2005
à l'intention de la Commission spéciale de mars / avril 2005
sur les affaires générales et la politique de la Conférence

Preliminary Document No 21A of February 2005
for the attention of the Special Commission of March / April 2005
on General Affairs and Policy of the Conference

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PROJET DE RECOMMANDATION A LA VINGTIEME SESSION DE LA CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE RELATIVE A L'ADMISSION DE LA COMMUNAUTE EUROPEENNE AU SEIN DE LA CONFERENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVE

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DRAFT RECOMMENDATION TO THE TWENTIETH SESSION OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW ON THE ADMISSION OF THE EUROPEAN COMMUNITY TO THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

drawn up by the Permanent Bureau

DRAFT RECOMMENDATION TO THE TWENTIETH SESSION OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW ON THE ADMISSION OF THE EUROPEAN COMMUNITY TO THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

for the attention of the Special Commission on General Affairs and Policy of the Conference (31 March–1 April 2005)

The Special Commission,

Having examined, at its meetings of 1-3 April 2003, 6-8 April 2004, and 31 March-1 April 2005, the wish of the European Community (hereafter "the Community") to become a Member of the Conference, the complementary information provided by the Community, the written comments submitted by Member States and the Report of the Secretary General based on his consultations with the Informal Advisory Group constituted at the suggestion of the Special Commission;

Considering it desirable that the Statute of the Conference be amended, in accordance with its Article 12, so as to make membership of the Conference possible for the European Community as well as for any other Regional Economic Integration Organisations to which its Member States have transferred competence over matters of private international law;

Considering it furthermore desirable to take the opportunity to make certain adaptations to the text of the Statute so that it conforms with practices which have developed since the Statute came into force on 15 June 1955, and to establish an English version of the Statute equally authentic to the French;

Considering that Article 12 of the Statute provides for amendment of the Statute by a decision of two-thirds of the Members, and that such decision may be made either at a Session or by written consultation,

Considering that membership of the Conference of a Regional Economic Integration Organisation entails the need to amend the "Rules of Procedure for Plenary Meetings", and that it is also desirable to give these Rules wider applicability,

Recommends to the Twentieth Session:

RECOMMENDATION 1

That it *agree* upon the following amendments to the Statute with a view to their submission to Member States for their approval in accordance with Article 12:[1,2]

Article 2, paragraph 2:

2. Any other *State*, the participation of which is from a juridical point of view of importance for the work of the Conference, may become *a Member*. The admission of new **Member States** shall be decided upon by the Governments of the participating States, upon the proposal of one or more of them, by a majority of the votes cast, within a period of six months from the date on which that proposal is submitted to the Governments.

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[1] For the consolidated text of the Statute with proposed amendments see Annex 1 to this Recommendation.

[2] English translation of the Statute of the Hague Conference taken from the *United Nations Treaty Series*, 1955, No 2997, p. 123. Small linguistic corrections to this translation are in *italics*; the substantial changes are marked in **bold**.

Following Article 2 *insert* Article 2A as follows:

1. **The Member States may, at a meeting where the majority of Member States is present, by a majority of the votes cast, decide to admit also as a Member any Regional Economic Integration Organisation which has submitted an application for membership to the Secretary General. References to Members under this Statute shall include such Member Organisations, except as otherwise expressly provided. The admission shall become effective upon the acceptance of the Statute by the Regional Economic Integration Organisation concerned.**

2. **To be eligible to apply for membership of the Conference, a Regional Economic Integration Organisation must be one constituted by sovereign States [, a majority of which are Members of the Conference,] and to which its Member States have transferred competence over a range of matters within the purview of the Conference, including the authority to make decisions binding on its Member States in respect of those matters.**

3. **Each Regional Economic Integration Organisation applying for membership shall, at the time of such application, submit a declaration of competence specifying the matters in respect of which competence has been transferred to it by its Member States.**

4. **Any change regarding the competence of the Member Organisation shall be notified by the Member Organisation [and its Member States] to the Secretary General, who shall circulate such information to the other Members of the Conference.**

5. **Member States of the Member Organisation shall be presumed to retain competence over all matters in respect of which transfers of competence have not been specifically declared or notified.**

6. **Any Member of the Conference may request the Member Organisation [and its Member States] to provide information as to whether the Member Organisation has competence in respect of any specific question. The Member Organisation [and its Member States] shall provide this information on such request.**

7. **The Member Organisation shall exercise membership rights on an alternative basis with its Member States that are Members of the Conference, in the areas of their respective competences.**

8. **The Member Organisation may exercise on matters within its competence, in any meetings of the Conference in which it is entitled to participate, a number of votes equal to the number of its Member States which have transferred competence to the Member Organisation in respect of the matter in question, and which are entitled to vote in such meetings [and are present at the time the vote is taken]. Whenever the Member Organisation exercises its right to vote, its Member States shall not exercise theirs, and conversely.**

Article 3:

1. The **Council on General Affairs and Policy (hereafter "the Council"), composed of all Members,** *has charge* of the operation of the Conference. **Meetings of the Council shall, in principle, be held annually.**

2. The **Council** *ensures such* operation *through* a Permanent Bureau the activities of which it directs.

3. **The Council** shall examine all proposals intended to be placed on the agenda of the Conference. It shall be free to determine the action to be taken on such proposals.

4. The **Netherlands** Standing Government Committee**, instituted by Royal Decree of February 20, 1897 with a view to promoting the codification of private international law,** shall, after consultation with the Members of the Conference, determine the date of the **Diplomatic** Sessions.

5. **The Standing Government Committee** shall address itself to the Government of the Netherlands for the convocation of the Members. **The Chair of the Standing Government Committee presides over the Sessions of the Conference.**

6. The Ordinary Sessions of the Conference shall, in principle, be held every four years.

7. If necessary, the **Council** may, **after consultation with the Standing Government Committee**, request the Government of the Netherlands to convene the Conference in *Extraordinary Session*.

8. **The Council may consult the Standing Government Committee on any other matter relevant to the Conference.**

Article 4:

1. The Permanent Bureau shall have its seat at The Hague. It shall be composed of a Secretary General and **four** Secretaries **[…]** who shall be appointed by the Government of the Netherlands upon presentation by the Standing Government Committee. **They shall all be citizens of different States which shall not all belong to a single Member Organisation.**

2. The Secretary General and the Secretaries must possess appropriate legal knowledge and practical experience; **account shall also be taken of diversity of geographic representation and of legal expertise.**

3. The number of Secretaries may be increased after consultation with the **Council and in accordance with Article 9.**

Article 5:

Under the direction of the **Council,** the Permanent Bureau shall be charged with:

(a) the preparation and organisation of the Sessions of the Hague Conference and the meetings of **the Council and of any** Special Commissions;

(b) the work of the Secretariat of the Sessions and meetings envisaged above;

(c) all the tasks which are included in the activity of a secretariat.

Article 6:

1. With a view to facilitating communication between the Members of the Conference and the Permanent Bureau, the Government of each of the Member **States** shall designate a national **organ and each Member Organisation a contact organ**.

2. The Permanent Bureau may correspond with all the **organs** so designated and with the competent international organisations.

Article 7:

The **Sessions** and, in the interval between Sessions, the **Council**, may set up Special *Commissions* to prepare draft Conventions or to study all questions of private international law which come within the purpose of the Conference.

Article 8:

1. **Subject to Article 10, paragraph 1, the expenses of the annual budget of the Conference** shall be apportioned among the Member **States** of the Conference, with the exception of the travelling and living expenses of the delegates to the **Council and the** Special *Commissions*, which expenses shall be payable by the **Members** represented.

2. **A Member Organisation shall not be required to contribute to the annual budget of the Conference, but shall pay a sum to be determined by the Conference[, in consultation / by agreement with the Member Organisation], to cover [additional,][administrative and other expenses] arising out of its membership.**

Article 9:

1. The budget of the **Conference** shall be submitted each year to the **Council of** Diplomatic Representatives at The Hague for approval.

2. These Representatives shall also apportion among the Member **States** the expenses which are charged in that budget to the latter.

3. The Diplomatic Representatives shall meet for such purposes under the chairmanship of the Minister of Foreign Affairs of the **Kingdom of the** Netherlands.

Article 10, paragraphs 2 and 3:

2. In case of *Extraordinary* Sessions, the expenses shall be apportioned among the Member **States** of the Conference who are represented at the Session.

3. In any case, the travelling and living expenses of the delegates shall be payable by the respective **Members**.

Article 11 (French text only):

*Les usages de la Conférence continuent à être en vigueur pour tout ce qui n'est pas contraire au présent Statut ou au**x** Règlement**s**.*

Article 12:

Amendments to the present Statute may be made if they are approved by two-thirds of the **Member States.**

Article 13:

To provide for their execution, the provisions of the present *Statute* will be complemented by Regulations. The Regulations shall be established by the Permanent Bureau and submitted to the **Members** for approval.

Article 14, paragraph 3:

3. The **Netherlands Government shall**, in the case of the admission of a new **Member**, **inform all Members of** the statement of acceptance of that **new Member**.

Article 15, paragraph 2:

2. Notice of the denunciation shall be given to the Ministry of Foreign Affairs of the **Kingdom of the** Netherlands at least six months before the expiration of the budgetary year of the Conference, and shall become effective at the expiration of the said year, but only with respect to the Member which has given notice thereof.

Following Article 15, *add*:

The English and French texts of this Statute, as amended on…….. 200., are equally authentic.

RECOMMENDATION 2

That it *adopt*, as the English version of the amended Statute equally authentic to the original French text, the text appearing in Annex 2 with effect from the date on which the amendments enter into force.

RECOMMENDATION 3

That the Secretary General should –

(a) invite States to cast their vote on the proposed amendments in accordance with Article 12 of the Statute either during the Twentieth Session or in writing within a period of **[…]** months following the Session;

(b) at the end of the **[…]** months period, if the votes needed to constitute a two-thirds majority have been cast or received, draw up a *procès-verbal* specifying the Member States that have cast their votes and declaring that the amendments have been adopted; and

That the date of the entry into force of the amendments will be, if the two-thirds majority is reached at the Twentieth Session, the date of the vote at the Session, and in the alternative, the date of the *procès-verbal*.

RECOMMENDATION 4

That it *decide*, by a majority of the Member States, that the "Rules of Procedure for Plenary Meetings" shall apply to the Diplomatic Sessions of the Conference as well as to the meetings of the Council referred to in Article 3 of the Statute (as amended) and to those of Special Commissions, with the following amendments (the amendments to enter into force on the date of the entry into force of the amendments to the Statute):[3]

Title:

Rules of Procedure **[…]**

[3] For the consolidated text of the Rules of Procedure see Annex 3 to this Recommendation.

Article 1:

For both plenary and **commission** meetings, delegations of the majority of the States participating at the **Diplomatic** Session shall constitute a quorum. **This provision shall be applied *mutatis mutandis* to meetings of the Council and of Special Commissions.**

Following Article 1 *insert* Article 1A as follows:

As far as possible, all decisions shall be taken by consensus. If exceptionally it is not possible to attain consensus, decisions shall be taken by vote in accordance with the following rules.

Article 2, paragraph 2:

A Member Organisation may exercise on matters within its competence, in any meetings of the Conference in which it is entitled to participate, a number of votes equal to the number of its Member States which have transferred competence to the Member Organisation in respect of the matter in question, and which are entitled to vote in such meetings [and are present at the time the vote is taken]. Whenever the Member Organisation exercises its right to vote, its Member States shall not exercise theirs, and conversely.

Article 4:

The Conference shall vote by show of hands or, if the Chairman or any delegation so requests, by roll call. The roll call shall be taken in the alphabetical order of the French names of the States **or Member Organisations** participating in the Conference, beginning with the **delegation** designated by the Chairman. The name of each delegation shall be called in any roll call vote and one of its members shall reply "for", "against" or "abstention", or shall make known his **or her** choice if two opposing proposals are put before the Conference.

RECOMMENDATION 5

That it *take note*, with satisfaction, of the assurance given by the European Community that it will, on the occasion of its acceptance of the Statute, deposit a written declaration to the following effect:

1. The European Community endeavours to examine whether it is in the interest of the Community to join existing Hague Conventions, in particular those providing for judicial and administrative co-operation (*e.g.* the Conventions on the Service of Documents and the Taking of Evidence Abroad). Where this interest exists, the European Community, in cooperation with the Hague Conference, will make every effort to overcome the difficulties resulting from the absence of a clause providing for the accession of a Regional Economic Integration Organisation to these Conventions.

2. The European Community endeavours to make participation possible of representatives of the Permanent Bureau of the Conference in meetings of experts organised [by the European Community] where matters of interest to the Conference are being discussed.

RECOMMENDATION 6

That it [decide], subject to the adoption of the proposed amendments to the Statute, in accordance with the procedure set out in Recommendation 3, to admit the European Community as a Member of the Hague Conference on Private International Law following Article 2A, paragraph 1, of the amended Statute.

A N N E X E S

English translation of the Statute of the Hague Conference, which was drawn up in French only. Taken from the United Nations Treaty Series, 1955, No 2997, p. 123 [with small corrections in italics]. Proposed amendments in **bold**.

STATUTE
OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

(Entered into force 15 July 1955)

The Governments of the countries hereinafter specified:

the German Federal Republic, Austria, Belgium, Denmark, Spain, Finland, France, Italy, Japan, Luxembourg, Norway, the Netherlands, Portugal, the United Kingdom of Great Britain and Northern Ireland, Sweden and Switzerland;

In view of the permanent character of the Hague Conference on Private International Law;

Desiring to stress that character;

Having, to that end, deemed it desirable to provide the Conference with a Statute;

Have agreed upon the following provisions:

Article 1

The purpose of the Hague Conference is to work for the progressive unification of the rules of private international law.

Article 2

1. Members of the Hague Conference on Private International Law are the States which have already participated in one or more Sessions of the Conference and which accept the present *Statute.*

2. Any other *State*, the participation of which is from a juridical point of view of importance for the work of the Conference, may become *a Member*. The admission of new **Member States** shall be decided upon by the Governments of the participating States, upon the proposal of one or more of them, by a majority of the votes cast, within a period of six months from the date on which that proposal is submitted to the Governments.

3. The admission shall become *effective* upon the acceptance of the present Statute by the State concerned.

Article 2A

1. The Member States may, at a meeting where the majority of Member States is present, by a majority of the votes cast, decide to admit also as a Member any Regional Economic Integration Organisation which has submitted an application for membership to the Secretary

General. References to Members under this Statute shall include such Member Organisations, except as otherwise expressly provided. The admission shall become effective upon the acceptance of the Statute by the Regional Economic Integration Organisation concerned.

2. To be eligible to apply for membership of the Conference, a Regional Economic Integration Organisation must be one constituted by sovereign States[, a majority of which are Members of the Conference,] and to which its Member States have transferred competence over a range of matters within the purview of the Conference, including the authority to make decisions binding on its Member States in respect of those matters.

3. Each Regional Economic Integration Organisation applying for membership shall, at the time of such application, submit a declaration of competence specifying the matters in respect of which competence has been transferred to it by its Member States.

4. Any change regarding the competence of the Member Organisation shall be notified by the Member Organisation [and its Member States] to the Secretary General, who shall circulate such information to the other Members of the Conference.

5. Member States of the Member Organisation shall be presumed to retain competence over all matters in respect of which transfers of competence have not been specifically declared or notified.

6. Any Member of the Conference may request the Member Organisation [and its Member States] to provide information as to whether the Member Organisation has competence in respect of any specific question. The Member Organisation [and its Member States] shall provide this information on such request.

7. The Member Organisation shall exercise membership rights on an alternative basis with its Member States that are Members of the Conference, in the areas of their respective competences.

8. The Member Organisation may exercise on matters within its competence, in any meetings of the Conference in which it is entitled to participate, a number of votes equal to the number of its Member States which have transferred competence to the Member Organisation in respect of the matter in question, and which are entitled to vote in such meetings [and are present at the time the vote is taken]. Whenever the Member Organisation exercises its right to vote, its Member States shall not exercise theirs, and conversely.

Article 3

1. The **Council on General Affairs and Policy (hereafter "the Council"), composed of all Members,** *has charge* of the operation of the Conference. **Meetings of the Council shall, in principle, be held annually.**

2. The **Council** *ensures such* operation *through* a Permanent Bureau the activities of which it directs.

3. **The Council** shall examine all proposals intended to be placed on the agenda of the Conference. It shall be free to determine the action to be taken on such proposals.

4. The **Netherlands** Standing Government Committee**, instituted by Royal Decree of February 20, 1897 with a view to promoting the codification of private international law,** shall, after consultation **having been** made with the Members of the Conference, determine the date of the **Diplomatic** Sessions.

5. **The Standing Government Committee** shall address itself to the Government of the Netherlands for the convocation of the Members. **The Chair of the Standing Government Committee presides over the Sessions of the Conference.**

6. The Ordinary Sessions of the Conference shall, in principle, be held every four years.

7. If necessary, the **Council** may, **after consultation with the Standing Government Committee**, request the Government of the Netherlands to convene the Conference in *Extraordinary Session*.

8. **The Council may consult the Standing Government Committee on any other matter relevant to the Conference.**

Article 4

1. The Permanent Bureau shall have its seat at The Hague. It shall be composed of a Secretary General and **four** Secretaries **[…]** who shall be appointed by the Government of the Netherlands upon presentation by the Standing Government Committee. **They shall all be citizens of different States which shall not all belong to a single Member Organisation.**

2. The Secretary General and the Secretaries must possess appropriate legal knowledge and practical experience; **account shall also be taken of diversity of geographic representation and of legal expertise.**

3. The number of Secretaries may be increased after consultation with the **Council and in accordance with Article 9.**

Article 5

Under the direction of the **Council,** the Permanent Bureau shall be charged with:

(a) the preparation and organisation of the Sessions of the Hague Conference and the meetings of **the Council and of any** Special Commissions;
(b) the work of the Secretariat of the Sessions and meetings envisaged above;
(c) all the tasks which are included in the activity of a secretariat.

Article 6

1. With a view to facilitating communication between the Members of the Conference and the Permanent Bureau, the Government of each of the Member **States** shall designate a national **organ and each Member Organisation a contact organ**.

2. The Permanent Bureau may correspond with all the **organs** so designated and with the competent international organisations.

Article 7

The **Sessions** and, in the interval between Sessions, the **Council**, may set up Special *Commissions* to prepare draft Conventions or to study all questions of private international law which come within the purpose of the Conference.

Article 8

1. **Subject to Article 10, paragraph 1, the expenses of the annual budget of the Conference** shall be apportioned among the Member **States** of the Conference, with the exception of the travelling and living expenses of the delegates to the **Council and the** Special *Commissions*, which expenses shall be payable by the **Members** represented.

2. **A Member Organisation shall not be required to contribute to the annual budget of the Conference, but shall pay a sum to be determined by the Conference[, in consultation / by agreement with the Member Organisation], to cover [additional,][administrative and other expenses] arising out of its membership.**

Article 9

1. The budget of the **Conference** shall be submitted each year to the **Council of** Diplomatic Representatives at The Hague for approval.

2. These Representatives shall also apportion among the Member **States** the expenses which are charged in that budget to the latter.

3. The Diplomatic Representatives shall meet for such purposes under the chairmanship of the Minister of Foreign Affairs of the **Kingdom of the** Netherlands.

Article 10

1. The expenses resulting from the *Ordinary* Sessions of the Conference shall be borne by the Government of the Netherlands.

2. In case of *Extraordinary* Sessions, the expenses shall be apportioned among the Member **States** of the Conference who are represented at the Session.

3. In any case, the travelling and living expenses of the delegates shall be payable by the respective **Members**.

Article 11

The usages of the Conference shall continue to be observed on all points, unless contrary to the present Statute or to the Regulations.

Article 12

Amendments to the present Statute may be made if they are approved by two-thirds of the **Member States**.

Article 13

To provide for their execution, the provisions of the present *Statute* will be complemented by Regulations. The Regulations shall be established by the Permanent Bureau and submitted to the **Members** for approval.

Article 14

1. The present Statute shall be submitted for acceptance to the Governments of States which participated in one or more Sessions of the Conference. It shall enter into force as soon as it is accepted by the majority of the States represented at the Seventh Session.

2. The statement of acceptance shall be deposited with the Netherlands Government, which shall make it known to the Governments referred to in the first paragraph of this article.

3. The **Netherlands Government shall**, in the case of the admission of a new **Member**, **inform all Members of** the statement of acceptance of that **new Member**.

Article 15

1. Each Member may denounce the present Statute after a period of five years from the date of its entry into force under the terms of Article 14, paragraph 1.

2. Notice of the denunciation shall be given to the Ministry of Foreign Affairs of the **Kingdom of the** Netherlands at least six months before the expiration of the budgetary year of the Conference, and shall become effective at the expiration of the said year, but only with respect to the Member which has given notice thereof.

The English and French texts of this Statute, as amended on…….. 200., are equally authentic.

STATUTE
OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW[1,2]

The Governments of the countries hereinafter specified:

the German Federal Republic, Austria, Belgium, Denmark, Spain, Finland, France, Italy, Japan, Luxembourg, Norway, the Netherlands, Portugal, the United Kingdom of Great Britain and Northern Ireland, Sweden and Switzerland;

In view of the permanent character of the Hague Conference on Private International Law;

Desiring to stress that character;

Having, to that end, deemed it desirable to provide the Conference with a Statute;

Have agreed upon the following provisions:

Article 1

The purpose of the Hague Conference is to work for the progressive unification of the rules of private international law.

Article 2

1. Members of the Hague Conference on Private International Law are the States which have already participated in one or more Sessions of the Conference and which accept the present Statute.

2. Any other State, the participation of which is from a juridical point of view of importance for the work of the Conference, may become a Member. The admission of new Member States shall be decided upon by the Governments of the participating States, upon the proposal of one or more of them, by a majority of the votes cast, within a period of six months from the date on which that proposal is submitted to the Governments.

3. The admission shall become effective upon the acceptance of the present Statute by the State concerned.

Article 2A

1. The Member States may, at a meeting where the majority of Member States is present, by a majority of the votes cast, decide to admit also as a Member any Regional Economic Integration Organisation which has submitted an application for membership to the Secretary General. References to Members under this Statute shall include such Member Organisations, except as otherwise expressly provided. The admission shall become effective upon the acceptance of the Statute by the Regional Economic Integration Organisation concerned.

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[1] Text as amended on ..... 200.. The original Statute (in French only) entered into force on 15 July 1955.
[2] Text identical to the English text which appears in Annex 1, without characters in italics and bold.

2. To be eligible to apply for membership of the Conference, a Regional Economic Integration Organisation must be one constituted by sovereign States[, a majority of which are Members of the Conference,] and to which its Member States have transferred competence over a range of matters within the purview of the Conference, including the authority to make decisions binding on its Member States in respect of those matters.

3. Each Regional Economic Integration Organisation applying for membership shall, at the time of such application, submit a declaration of competence specifying the matters in respect of which competence has been transferred to it by its Member States.

4. Any change regarding the competence of the Member Organisation shall be notified by the Member Organisation [and its Member States] to the Secretary General of the Conference, who shall circulate such information to the other Members of the Conference.

5. Member States of the Member Organisation shall be presumed to retain competence over all matters in respect of which transfers of competence have not been specifically declared or notified.

6. Any Member of the Conference may request the Member Organisation [and its Member States] to provide information as to whether the Member Organisation has competence in respect of any specific question. The Member Organisation [and its Member States] shall provide this information on such request.

7. The Member Organisation shall exercise membership rights on an alternative basis with its Member States that are Members of the Conference, in the areas of their respective competences.

8. The Member Organisation may exercise on matters within its competence, in any meetings of the Conference in which it is entitled to participate, a number of votes equal to the number of its Member States which have transferred competence to the Member Organisation in respect of the matter in question, and which are entitled to vote in such meetings [and are present at the time the vote is taken]. Whenever the Member Organisation exercises its right to vote, its Member States shall not exercise theirs, and conversely.

Article 3

1. The Council on General Affairs and Policy (hereafter “the Council”), composed of all Members, has charge of the operation of the Conference. Meetings of the Council shall, in principle, be held annually.

2. The Council ensures such operation through a Permanent Bureau the activities of which it directs.

3. The Council shall examine all proposals intended to be placed on the agenda of the Conference. It shall be free to determine the action to be taken on such proposals.

4. The Netherlands Standing Government Committee, instituted by Royal Decree of February 20, 1897 with a view to promoting the codification of private international law, shall, after consultation with the Members of the Conference, determine the date of the Diplomatic Sessions.

5. The Standing Government Committee shall address itself to the Government of the Netherlands for the convocation of the Members. The Chair of the Standing Government Committee presides over the Sessions of the Conference.

6. The Ordinary Sessions of the Conference shall, in principle, be held every four years.

7. If necessary, the Council may, after consultation with the Standing Government Committee, request the Government of the Netherlands to convene the Conference in Extraordinary Session.

8. The Council may consult the Standing Government Committee on any other matter relevant to the Conference.

Article 4

1. The Permanent Bureau shall have its seat at The Hague. It shall be composed of a Secretary General and four Secretaries who shall be appointed by the Government of the Netherlands upon presentation by the Standing Government Committee. They shall be citizens of different States which shall not all belong to a single Member Organisation.

2. The Secretary General and the Secretaries must possess appropriate legal knowledge and practical experience; account shall also be taken of diversity of geographic representation and of legal expertise.

3. The number of Secretaries may be increased after consultation with the Council and in accordance with Article 9.

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Under the direction of the Council, the Permanent Bureau shall be charged with:

(a) the preparation and organisation of the Sessions of the Hague Conference and the meetings of the Council and of any Special Commissions;

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1. With a view to facilitating communication between the Members of the Conference and the Permanent Bureau, the Government of each of the Member States shall designate a national organ and each Member Organisation a contact organ.

2. The Permanent Bureau may correspond with all the organs so designated and with the competent international organisations.

Article 7

The Sessions and, in the interval between Sessions, the Council, may set up Special Commissions to prepare draft Conventions or to study all questions of private international law which come within the purpose of the Conference.

Article 8

1. Subject to Article 10, paragraph 1, the annual budget of the Conference shall be apportioned among the Member States of the Conference, with the exception of the travelling and living expenses of the delegates to the Council and the Special Commissions, which expenses shall be payable by the Members represented.

2. A Member Organisation shall not be required to contribute to the annual budget of the Conference, but shall pay a sum to be determined by the Conference[, in consultation / by agreement with the Member Organisation,] to cover [additional,][administrative and other expenses] arising out of its membership.

Article 9

1. The budget of the Conference shall be submitted each year to the Council of Diplomatic Representatives at The Hague for approval.

2. These Representatives shall also apportion among the Member States the expenses which are charged in that budget to the latter.

3. The Diplomatic Representatives shall meet for such purposes under the chairmanship of the Minister of Foreign Affairs of the Kingdom of the Netherlands.

Article 10

1. The expenses resulting from the Ordinary Sessions of the Conference shall be borne by the Government of the Netherlands.

2. In case of Extraordinary Sessions, the expenses shall be apportioned among the Member States of the Conference who are represented at the Session.

3. In any case, the travelling and living expenses of the delegates shall be payable by the respective Members.

Article 11

The usages of the Conference shall continue to be observed on all points, unless contrary to the present Statute or to the Regulations.

Article 12

Amendments to the present Statute may be made if they are approved by two-thirds of the Member States.

Article 13

To provide for their execution, the provisions of the present Statute will be complemented by Regulations. The Regulations shall be established by the Permanent Bureau and submitted to the Members for approval.

Article 14

1. The present Statute shall be submitted for acceptance to the Governments of States which participated in one or more Sessions of the Conference. It shall enter into force as soon as it is accepted by the majority of the States represented at the Seventh Session.

2. The statement of acceptance shall be deposited with the Netherlands Government, which shall make it known to the Governments referred to in the first paragraph of this article.

3. The Netherlands Government shall, in the case of the admission of a new Member, inform all Members of the statement of acceptance of that new Member.

Article 15

1. Each Member may denounce the present Statute after a period of five years from the date of its entry into force under the terms of Article 14, paragraph 1.

2. Notice of the denunciation shall be given to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiration of the budgetary year of the Conference, and shall become effective at the expiration of the said year, but only with respect to the Member which has given notice thereof.

The English and French texts of this Statute, as amended on…….. 200., are equally authentic.

Rules of Procedure **[ ]**

Quorum

Article 1

For both plenary and **commission** meetings, delegations of the majority of the States participating at the **Diplomatic** Session shall constitute a quorum. **This provision shall be applied *mutatis mutandis* to meetings of the Council and of Special Commissions.**

Consensus

Article 1A

As far as possible, all decisions shall be taken by consensus. If exceptionally it is not possible to attain consensus, decisions shall be taken by vote in accordance with the following rules.

Voting rights

Article 2

Each delegation shall have one vote. A delegation may not represent and vote for another delegation.

A Member Organisation may exercise on matters within its competence, in any meetings of the Conference in which it is entitled to participate, a number of votes equal to the number of its Member States which have transferred competence to the Member Organisation in respect of the matter in question, and which are entitled to vote in such meetings[and are present at the time the vote is taken]. Whenever the Member Organisation exercises its right to vote, its Member States shall not exercise theirs, and conversely.

Majority required

Article 3

Decisions shall be made by a majority of the votes cast by delegations present at the time of the vote; abstentions shall not be counted as votes.

Method of voting

Article 4

The Conference shall vote by show of hands or, if the Chairman or any delegation so requests, by roll call. The roll call shall be taken in the alphabetical order of the French names of the States **or Member Organisations** participating in the Conference, beginning with the **delegation** designated by the Chairman. The name of each delegation shall be called in any roll call vote and one of its members shall reply “for”, “against” or “abstention”, or shall make known his **or her** choice if two opposing proposals are put before the Conference.

Conduct during voting

Article 5

After the Chairman has announced the beginning of voting, no representative may interrupt the voting except on a point of order in connection with the conduct of the voting. The Chairman may permit one member of each delegation to explain the vote of his delegation, either before or after the voting but not during the voting.

General powers of Chairmen

Article 6

In addition to exercising the powers entrusted to him by virtue of the other provisions in these rules, the person presiding over each meeting shall maintain order over the proceedings, shall accord the right to speak, shall put questions to the vote and shall announce the results of the voting. He shall rule on points of order and he may propose the limitation of the time to be allowed to speakers, the limitation of the number of times each representative may speak on any one item, the closure of the list of speakers or the closure of the proceedings. He may also propose the suspension or the adjournment of the debate in the item under discussion.

Speeches

Article 7

No one may take the floor without having previously obtained the permission of the Chairman. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Time-limit on speakers

Article 8

The Conference may decide to limit the time to be allowed to each speaker and the number of times each representative may speak on any one item. When debate is limited and a speaker has exceeded his allotted time, the Chairman shall call him to order without delay. The Chairman may, if need be, decide that each delegation may only speak once on a point in discussion.

Closing of list of speakers

Article 9

During a debate, the Chairman may, with the consent of the Conference, declare the list of speakers closed. He may nevertheless accord a right of reply to any representative if an observation made after the closure of the list of speakers makes such a course of action desirable.

Points of order

Article 10

During the discussion of any matter, a representative may raise a point of order and the Chairman shall give a ruling thereon without delay in accordance with the present rules of procedure.

Any representative may appeal against a ruling of the Chairman. The appeal shall at once be put to the vote. The ruling of the Chairman shall stand unless it is overruled by a majority of the delegations present at the vote. A representative who raises a point of order may not speak, in connection therewith, on the substance of the item under discussion.

Adjournment of debate

Article 11

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one representative may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote.

Closure of debate

Article 12

A representative may at any time move the closure of the debate on the item under discussion, even if other representatives have signified their wish to speak. Permission to speak shall be accorded only to one representative seconding, and two opposing, the closure, after which the motion shall be immediately put to the vote. If the Conference is in favour of the motion, the Chairman shall declare the debate closed. The Chairman may close the debate on a given matter at any moment, if he determines that the point at issue has been discussed sufficiently.

Order of procedural motions

Article 13

Subject to the provisions of Article 10, the following motions shall have priority, in the order indicated hereafter, over all proposals and motions submitted:

a to adjourn the debate on the item under discussion;
b to close the debate on the item under discussion.

Proposals and amendments

Article 14

Proposals and amendments shall in principle be handed in writing to the Secretariat of the Conference, which shall circulate them to the delegations. As a general rule, any delegation may object to a proposal being discussed or put to the vote at any meeting if the text thereof has not been circulated in writing.

Voting on proposals

Article 15

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted.

Where the Conference decides to have one vote on two opposing proposals, the one having obtained the majority of votes shall be adopted and the other shall be held to have been rejected.

Reconsideration of proposals

Article 16

Once a proposal has been adopted or rejected, it may only be reconsidered if the Conference makes a decision to do so by an absolute majority of the delegations present at the vote. Permission to speak on a motion to reconsider shall be accorded only to two speakers in favour of, and to two speakers opposing, the motion, after which it shall be immediately put to the vote.

Voting on amendments

Article 17

When an amendment is moved to a proposal, the amendment shall be put to the vote first. When two or more amendments are moved to a proposal, the Conference shall vote first on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed, and so on, until all the amendments have been put to the vote. However, where the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote, unless it is decided otherwise by the delegations present. It may occur that two amendments are opposed to each other. In this case Article 15 shall be applied *mutatis mutandis*. If one or more amendments are adopted, a vote shall be taken on the proposal as amended. A motion is considered to be an amendment to a proposal if it adds to, deletes from or revises part of such proposal. Article 16 shall apply, *mutatis mutandis*, to the reconsideration of an amendment which has been adopted or rejected.

Equally divided votes

Article 18

If a vote is equally divided, the motion, proposal or amendment shall be put once more to the meeting. If on a second vote there is an equal division, the motion, proposal or amendment shall be regarded as rejected.