

## **Arrangements for appointing Secretaries General of the Hague Conference on Private International Law (HCCH)**

1. The appointment of Secretaries General of the HCCH is governed by Article 5 of the Statute of the HCCH which provides:
  - (1) The Permanent Bureau shall have its seat in 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.
  - (2) The Secretary General and the Secretaries must possess appropriate legal knowledge and practical experience. In their appointment 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 10.
2. On 4 March 2021, the Council on General Affairs and Policy of the HCCH (CGAP) approved the arrangements set out below with respect to the appointment of future Secretaries General of the HCCH. These arrangements consist of the following elements: (i) guiding principles; (ii) the duties and qualifications of Secretaries General; (iii) the procedure for recommending a candidate for appointment; (iv) the procedure for dealing with unexpected vacancies; (v) term limits; and (vi) the procedure for considering reappointment of Secretaries General for a second term.

### **I. Guiding Principles**

3. CGAP agreed to the following four guiding principles:
  - (a) The primary aim of any appointment procedure for Secretaries General should be the identification of a candidate with the experience, qualifications and personal attributes to provide the highest quality leadership to the Permanent Bureau.
  - (b) Members of the HCCH should participate in the appointment procedure and any associated procedures.
  - (c) The appointment procedure and associated procedures should reflect the size and specialist nature of the HCCH.
  - (d) The appointment procedure and associated procedures should be open and transparent.

## II. Duties and Qualifications of the Secretary General

### *Statement of Duties*

4. CGAP has adopted the following Statement of Duties for the position of Secretary General of the HCCH. The Statement is intended to assist holders of that position to understand their role, to guide the identification of appropriate people to be appointed to the position and to allow Members of the HCCH to monitor and assess the performance of the Secretary General.

### Secretary General of the HCCH

#### Statement of Duties

The Secretary General is responsible for managing the Permanent Bureau of the HCCH and for the performance, under the direction of the Council on General Affairs and Policy, of its functions under Article 6 of the Statute of the HCCH. The Secretary General reports to the Council on General Affairs and Policy and the Council of Diplomatic Representatives. The duties of the Secretary General are set out below.

#### *Implementing the Work Programme of the HCCH and developing a Strategic Plan*

1. Implementing the Work Programme of the HCCH as determined by the Council on General Affairs and Policy.
2. Preparation and organisation of the Diplomatic Sessions of the HCCH, Council meetings, Special Commissions, Working Groups and Experts' Groups.
3. At the direction of the Council on General Affairs and Policy develop a Strategic Plan for the Organisation in consultation with Members at an interval of no more than three to five years.

#### *Managing the resources of the Organisation*

4. Managing the human and financial resources of the Organisation to ensure that the services the Permanent Bureau provides to Members of the HCCH are of the highest standard and quality and delivered in a timely manner.
5. Promoting teamwork within the Permanent Bureau and providing a safe, harmonious and productive working environment for the staff of the Permanent Bureau, including promptly resolving any disputes that may arise.

#### *Representing the HCCH*

6. Representing the HCCH in its relations with the host Government, other Governments and intergovernmental and non-governmental organisations.

#### *Ensuring the good governance of the HCCH*

7. Ensuring the work of the Permanent Bureau is conducted in accordance with the Statute of the HCCH, rules and procedures of the HCCH.
8. Reporting to the Council on General Affairs and Policy on the implementation of the Work Programme and the Strategic Plan and to the Council on General Affairs and Policy and the Council of Diplomatic Representatives on financial matters.

## Statement of Qualifications

5. CGAP has adopted the following Statement of Qualifications for use in future appointment processes.

### Secretary General of the HCCH

#### Statement of Qualifications

Candidates must have a minimum of 12 years' relevant professional experience including in senior management positions as well as the qualifications, abilities and attributes necessary to perform the duties of the Secretary General as set out in the Statement of Duties. Experience of working within a Government of a Member or working with, or within, an international intergovernmental organisation is highly desirable.

Candidates should have:

1. an excellent knowledge of the principles of private international law and public international law including a thorough understanding of the operation of the Statute and core Conventions of the HCCH;
2. the experience and skills necessary to manage the human and financial resources of an organisation such as the HCCH;
3. a proven capacity to build strong and harmonious working relationships;
4. diplomatic skills and political sensitivity enabling them to maintain constructive and trusting relationships with the Members of the HCCH and with other organisations;
5. a proven capacity to build consensus and negotiate outcomes;
6. a proven capacity to identify and address emerging opportunities and challenges;
7. integrity, professionalism, results orientation, openness to new ideas, respect for others and a proven capacity to adapt to new situations and challenges.

Candidates must be a national of a Member State of the HCCH.

Candidates must be fluent in English, French or Spanish and have a working knowledge of at least one of the other languages. Knowledge of other languages, particularly those that are common to a region served by a Regional Office of the HCCH, is desirable.

Candidates are advised that in accordance with Article 5 of the Statute of the HCCH account shall also be taken of diversity of geographic representation and of legal expertise in appointments to the position of Secretary General.

### III. Recommending a Candidate for Appointment

6. As already noted under paragraph 1(1) above, under Article 5 of the Statute of the HCCH appointments to the position of Secretary General are made by the Government of the Netherlands upon presentation by the Standing Government Committee.
7. It is open to CGAP to recommend a suitable candidate for appointment to the Standing Government Committee for its consideration. CGAP has agreed on the procedure laid out below to identify an appropriate candidate to recommend to the Standing Government Committee.

8. CGAP emphasises the importance of attracting a strong field of candidates and is particularly concerned to attract a field of candidates that is diverse in terms of gender, geographical distribution and representation of all major legal systems. CGAP also stressed the importance of attracting candidates with the right mix of experience to lead the Permanent Bureau from both a substantive and managerial perspective.

### *Application Process*

9. Applications for the position of Secretary General are open to any qualified candidate from a Member State.
10. Vacancies shall be widely publicised, and Member States are invited to encourage applications by suitable candidates with emphasis on reaching diverse audiences to ensure a gender and geographically diverse pool of candidates. The Chair of CGAP must make arrangements for a vacancy announcement to be issued no later than six months before the meeting at which CGAP will make its recommendation to the Standing Government Committee. The vacancy announcement will refer possible candidates to the Statement of Duties and the Statement of Qualifications. Applications will be open for a period of six weeks and should include a clear statement of claims against the Statement of Qualifications set out above and the names and contact details of three suitable referees.

### *Consideration of Applications*

#### *Assessment Committee*

11. To assist it to identify a candidate to recommend for appointment, CGAP will establish a representative assessment committee to consider the claims of each candidate against the selection criteria, identify those who meet the published criteria, and shortlist the candidates for interview and undertake referee interviews for those candidates. Interviews should be conducted in one of the working languages of the HCCH, with interpretation provided in the other working languages if requested by any member of the assessment committee. CGAP should establish the representative assessment committee at its scheduled meeting that immediately precedes the publication of the vacancy announcement for the position of Secretary General.
12. CGAP agreed that the assessment committee would consist of at least six but no more than 10 representatives of Members of the HCCH selected by CGAP. In addition, the President of the Standing Government Committee and the Chair of CGAP should be *ex officio* members of the assessment committee. In identifying its representatives, CGAP shall, so far as possible, ensure appropriate geographic and gender representation on the assessment committee. Members of the assessment committee are expected to participate for the length of the assessment process and, to ensure continuity, no substitutions will be allowed.
13. The assessment committee will elect its own chair and will conduct its work in accordance with the HCCH Rules of Procedure. If no suitable candidate can be found for the position of chair, the President of the Standing Government Committee will fulfil this role.
14. The assessment committee will provide a report to CGAP. The report should set out the list of all candidates, the list of those candidates who meet the published criteria and an assessment of the claims to appointment of all candidates on the shortlist, that is, the candidates that the committee found suitable for appointment following interviews and other evaluation. However, the assessment committee should not identify a preferred or recommended candidate for appointment. The report does not need to include a detailed assessment of candidates who did not meet the published criteria or were otherwise not

found suitable for appointment. The report of the assessment committee will identify the candidates to be considered by CGAP. Members will have the possibility to interact with these candidates in the period between the publication of the report and the meeting of CGAP during which the candidates for the position of Secretary General are being considered.

- 14**bis.** Candidates are prohibited from contacting members of the assessment committee in all matters concerning their application and the recruitment process. This will be made clear in the vacancy announcement and the confirmation of the application material.
15. CGAP stressed the importance of ensuring that all candidates are treated equally by the assessment committee and that their suitability be assessed only on merit.
16. The assessment committee's report should be submitted to CGAP through the Chair of CGAP not later than 30 days before the next scheduled meeting of CGAP.
17. CGAP stresses the importance of preserving the dignity and privacy of all candidates during the assessment process. Accordingly, the assessment committee should take care to present its findings in a respectful and considered way. Members of the assessment committee will be requested to appropriately dispose of any working papers of the committee once the process has been finalised. The Chair of CGAP should remind Members of the HCCH to treat the report of the assessment committee with the utmost confidence at the time it is provided to them.

#### *CGAP Consideration*

18. CGAP would consider its recommendation for appointment as Secretary General at its next scheduled meeting after the assessment committee has completed its work. In addition to the report of the assessment committee, all Members of the HCCH would also have access to the full set of applications received through the Secure Portal of the HCCH website.
19. CGAP will adopt the following procedure for identifying a candidate to recommend to the Standing Government Committee.

#### **CGAP consideration of candidates for appointment as Secretary General**

**Step 1** – The Chair of CGAP will establish that a quorum has been constituted in accordance with Rule II.H.2 of the HCCH Rules of Procedure.

**Step 2** – The Chair will confirm the list of suitable candidates referred to in the report of the assessment committee with CGAP.

**Step 3** – The Chair will test whether there is a consensus candidate.

**Step 4** – In the absence of a consensus candidate, the Chair will conduct the first round of voting. Any candidate who receives a majority of the votes of Members present would be declared to be the recommended candidate. In the absence of a majority, any candidates who received no votes and the candidate who received the lowest number of votes would be disqualified from the next round of voting. Voting will be conducted by way of secret ballot.

**Step 5** – The Chair will conduct as many rounds of voting as required to achieve a majority of Members in favour of recommending a candidate. For each round, if a majority is not achieved then any candidates who receive no votes or the candidate who receives the least number of votes is disqualified from the next round.

**Step 6** – The Chair of CGAP will then advise the Standing Government Committee of CGAP's recommended candidate.

20. Discussion should occur in closed session without the presence of observers or the staff of the Permanent Bureau other than such staff as CGAP agrees would be of assistance to CGAP in its deliberations.
21. Candidates should not be present during CGAP's deliberations and should not be given the opportunity to address CGAP before its deliberations in matters relating to the recruitment process. Members should, to the greatest extent possible, avoid direct contact during CGAP deliberations with candidates being considered by CGAP about the recruitment process and vice versa, and, in particular, take measures to ensure that candidates are not directly or indirectly involved in the preparation of the consideration of candidates by CGAP.
22. If required, voting will be conducted by way of secret ballot.

#### Voting by Secret Ballot

1. In the event it is necessary to conduct voting by secret ballot, Members must have a representative with the authority to vote (including, for example, Ambassadors or other Embassy staff) physically present in the room. In the case of a hybrid meeting, those attending by videoconference will be able to follow and participate in discussions via a restricted link, however, participation in the vote is limited to those physically present. Those Members participating exclusively online will not be counted as part of the quorum for the purpose of the vote.
2. In accordance with Rule II.H.6 of the HCCH Rules of Procedure, “[a] delegation may not represent and vote for another delegation”. Voting by proxy is therefore not permitted.
3. Each delegation will be given one printed paper ballot with the names of the candidates clearly indicated. The Chair or Vice-Chair of CGAP will call each Member separately for its representative to cast a ballot. The Chair of CGAP will appoint several delegates (who can be, for example, members of the assessment committee or other delegates present in the room who have volunteered to serve as Member observers) to assist in the voting process, including distributing the ballots in the room. Before the ballots are cast, the delegates will display the ballot boxes, confirming that they are empty.
4. The ballots will be counted by the Chair and the Vice-Chair of CGAP, in the presence of at least two Member observers (who can be, for example, members of the assessment committee, or other delegates present in the room who have volunteered to serve as Member observers).
5. The count will determine whether there is a majority candidate. If so, the Chair of CGAP will identify the majority candidate. If there is no majority candidate, subsequent rounds of voting will be carried out in keeping with Step 5 in paragraph 19 of the Arrangements until a majority candidate is identified.
6. In keeping with Step 6 in paragraph 19 of the Arrangements, the Chair of CGAP will advise the Standing Government Committee of CGAP's recommended candidate.
7. Following the proclamation of CGAP's recommended candidate, where there has been voting by secret ballot, the ballots will be destroyed immediately after the close of the

session in which the vote took place under the supervision of the Chair, the Vice-Chair of CGAP and the Member observers.

### *Geographic Representation*

23. CGAP stressed its strong and active commitment to ensuring appropriate geographic representation within the HCCH.

### Unexpected Vacancies

24. Where a vacancy occurs unexpectedly in the office of the Secretary General, CGAP is of the view that the position should, ordinarily, be filled on an interim basis by one of the Secretaries of the Permanent Bureau. Any unexpected vacancy should be filled by the person who holds the position of Deputy Secretary General, if there is such a person. In the absence of a Deputy Secretary General, the Chair of CGAP and the President of the Standing Government Committee are requested by CGAP to identify a suitable person to fill the position on an interim basis.
25. Where an interim appointment is made in accordance with paragraph 24 of the Arrangements, such an arrangement should be reviewed at the next meeting of CGAP should the arrangement continue to be in place at the time of that meeting.

### Term Limits

26. CGAP has decided that in the interests of organisational renewal, Secretaries General should be appointed for time-limited terms and should be eligible to serve up to two terms. CGAP has further decided that an initial term should be five years with a second term of up to four years.
27. CGAP acknowledges that in some limited circumstances it will be in the interests of the HCCH that the second term of a Secretary General be extended. It would be open to CGAP in those circumstances to extend the second term of a Secretary General.
28. To assist with a smooth transition between appointments, CGAP recommends that appointments for Secretaries General should, in the ordinary course of events, commence on the first day of July of the year of appointment.

### Reappointment Process

29. CGAP has decided that a Secretary General should not automatically be reappointed at the conclusion of their first term.
30. At its next scheduled meeting following the expiry of the third year of the Secretary General's first term, CGAP will have a discussion of the Secretary General's achievements to date and performance, whether they should be re-appointed for a second term (assuming they are willing to be re-appointed), whether there should be an open selection process or any other steps that should be taken. As with other discussions before CGAP, consensus should be the guiding principle. However, in line with the HCCH Rules of Procedure, if no consensus on re-appointment is possible a vote should be conducted.

31. To ensure CGAP is able to hold an informed discussion of the Secretary General's performance, no later than six months before the CGAP meeting the Chair of CGAP should circulate to Members a brief questionnaire seeking the views of Members on how the Secretary General is performing against the Statement of Duties. Responses should be collated and provided to all Members in an anonymised form. In addition, the Chair of CGAP should commission a survey of the staff of the Permanent Bureau. Finally, the Secretary General should be invited to provide Members with a brief statement setting out their achievements in their first term and what they hope to achieve in a second term, if re-appointed. The Chair of CGAP should ensure that this information is circulated to Members no later than three months ahead of the CGAP meeting at which the matter is to be discussed.
32. At its discussion of the Secretary General's performance, it would be open to CGAP to: (a) re-appoint the Secretary General; (b) decide to commence an open selection process and establish a representative assessment committee in accordance with paragraph 11 of the Arrangements; or (c) re-appoint the Secretary General subject to conditions (for example, a shorter term of appointment or a requirement to receive professional coaching).
33. Any discussion in CGAP should be conducted in a way that respects the privacy and dignity of the Secretary General. Accordingly, CGAP has decided:
  - Discussion should occur in closed session without the presence of observers or the staff of the Permanent Bureau other than such staff as CGAP agrees would be of assistance to CGAP in its deliberations.
  - The Secretary General should not be present during CGAP's deliberations unless this would be of assistance to CGAP.
  - Whilst recognising the importance of the principle of consensus underpinning the work of the HCCH, the use of the voting procedure under the HCCH Rules of Procedure should be invoked if a consensus does not emerge in good time to ensure the matter can be resolved in a way that respects the interests of all.
34. Following consideration by CGAP, the Chair of CGAP will advise the Secretary General and the Standing Government Committee of the outcome.

## Indicative Timeframes

35. **Annex I** sets out indicative timeframes for an open selection process and consideration of re-appointment of an incumbent Secretary General.



## Annex I – Indicative Timeframes

### Open Selection Process

An open selection process would occur where (a) the incumbent Secretary General is ineligible for reappointment or does not wish to be re-appointed or (b) CGAP has decided not to re-appoint the incumbent Secretary General. The selection process would commence 15 months prior to the expiry of the incumbent Secretary General’s term.

CGAP establishes the Assessment Committee	March
Vacancy announcement issued by the Chair of CGAP on behalf of CGAP	September
Applications close	mid-October
Assessment Committee Consideration and Report	October – December
Chair of CGAP provides Assessment Committee Report to Members	January
CGAP Consideration and Recommendation	March
Chair of CGAP advises the Standing Government Committee of its Recommendation	March
Appointment of Secretary General by Kingdom of the Netherlands	July

### Consideration of Re-appointment

Where a Secretary General is eligible for re-appointment and wishes to be considered for reappointment, consideration for reappointment will take place following the completion of the first three years of the Secretary General’s term of office. Should CGAP decide to commence an open selection process then the open selection process timeframes set out above would apply.

Chair circulates questionnaire, initiates staff survey and invites Secretary General to prepare a written statement setting out achievements and proposed approach to a second term	September
Chair of CGAP circulates information to Members	December
CGAP Consideration. CGAP can: <ul style="list-style-type: none"> <li>• Recommend the commencement of an open selection process and establish an assessment committee (timeframes above apply)</li> <li>• Recommend reappointment, or</li> <li>• Recommend reappointment subject to conditions</li> </ul>	March
Chair of CGAP advises the Standing Government Committee of its Recommendation	March
<i>Re-appointment of Secretary General by Kingdom of the Netherlands should it be recommended by CGAP</i>	<i>Prior to expiry of term of office</i>