

Council on General Affairs and Policy of the Conference – March 2017

Document	Preliminary Document <input type="checkbox"/> Procedural Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	No 1 of November 2016
Title	Conclusions and Recommendations of the Council on General Affairs and Policy of the Conference of March 2016	
Author	Permanent Bureau	
Agenda item		
Mandate(s)		
Objective	Serve as basis for the discussions at the Council's Meeting in March 2017.	
Action to be taken	For Approval <input type="checkbox"/> For Decision <input type="checkbox"/> For Information <input checked="" type="checkbox"/>	
Annexes		
Related documents		

CONCLUSIONS & RECOMMENDATIONS

ADOPTED BY THE COUNCIL

1. From 15 to 17 March 2016, 219 participants took part in the Council on General Affairs and Policy of the Conference, representing 69 Members, two candidate States and observers from 12 IGO / NGOs.¹

Ceremonies for admittance of new Members and accessions to Hague Conventions

2. The Council witnessed:
 - a) the deposit of the instrument of acceptance of the Statute by the Republic of Moldova, and warmly welcomed this State as the 81st Member of the Hague Conference;
 - b) the proposal by the Government of the Netherlands to admit the Republic of Kazakhstan as a Member of the Hague Conference and the opening of the six-month voting procedure by the Secretary General;
 - c) the deposit by Costa Rica of the instruments of accession to the –
 - i. *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters* (becoming the 70th Contracting State);
 - ii. *Convention of 25 October 1980 on International Access to Justice* (becoming the 28th Contracting State); and
 - iii. *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (becoming the 59th Contracting State);
 - d) the deposit by the Philippines of the instrument of accession to the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* (becoming the 94th Contracting State).
 - e) the deposit by Viet Nam of the instrument of accession to the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters* (becoming the 71st Contracting State).

Election of a Vice-Chair of the Council

3. Upon the proposal of the Chair, the Council elected and warmly welcomed Mr Andrew Walter of Australia as Vice-Chair of the Council.

¹ These included the following Members of the Hague Conference on Private International Law: Albania, Andorra (Principality of), Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, European Union, Finland, France, Georgia, Germany, Greece, Hungary, India, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova (Republic of), Monaco, Morocco, Norway, Netherlands, New Zealand, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Viet Nam and Zambia; the following candidate States: Kazakhstan (Republic of) and Saudi Arabia; and the following interested international organisations: United Nations Commission on International Trade Law (UNCITRAL), Institute of International Law (IIL), International Institute for the Unification of Private Law (UNIDROIT), Organization for the Harmonization in Africa of Business Law (OHADA), World Intellectual Property Organization (WIPO), American Association of Private International Law (ASADIP), International Bar Association (IBA), International Swaps and Derivatives Association (ISDA), International Association of Lawyers (UIA), International Union of Judicial Officers (UIHJ), International Association of Judges (IAJ) and the International Union of Latin Notaries (UINL).

New ratifications / accessions: role of the Depositary and the Permanent Bureau

4. The Council took note of the different views expressed on the subject matter. It recalled the relevance of the Vienna Convention of 1969 on the Law of Treaties, in particular its Articles 76(2) and 77 on the functions of depositaries, and the provisions and requirements of the relevant Hague Convention. When, following the deposit of an instrument of ratification, approval, or accession, the Depositary subsequently receives an objection from a Contracting State, including based on the issue of statehood, the Depositary brings the matter to the attention of all Contracting States to the Convention concerned.

Universality of the Organisation – Status of its regional presence

5. The Council confirmed the Hague Conference's pursuit of universality as a central tenet of the Organisation's operational strategy.
6. Against this background, the Council welcomed the Reports of the Regional Offices and recognised the excellent services they have provided in the Hague Conference's efforts to pursue universality.
7. Following the positive assessment of the Asia Pacific Regional Office in Hong Kong SAR, the Council endorsed the continued operation of the Office.

Governance of the Organisation

8. The Council welcomed the Permanent Bureau's initiatives to improve its operations and the overall governance of the Organisation. In particular, it welcomed the Report concerning the Resource Allocation at the Permanent Bureau.
9. The Council welcomed the entry into force of the new Financial Regulations on 1 January 2016, and expressed its satisfaction with the role it has received under the new Regulations.
10. The Council noted the progress made in relation to the development of the Personnel Rules of the Organisation, and noted with satisfaction that the Working Group will continue its work.

Work relating to possible new instruments

Judgments Project

11. The Council welcomed the completion by the Working Group on the Judgments Project of a Proposed Draft Text, as set out in the report of the meeting of the Working Group of November 2015.
12. The Council decided to set up a Special Commission to prepare a draft Convention and instructed the Secretary General to convene the first meeting in June 2016 (and tentatively a second meeting in February 2017). The Council tasked the Permanent Bureau with the preparation of a note for the attention of the Special Commission, providing background to the Proposed Draft Text and identifying outstanding issues.
13. The Council endorsed the recommendation of the Working Group that matters relating to direct jurisdiction (including exorbitant grounds and *lis pendens* / declining jurisdiction) should be put for consideration to the Experts' Group of the Judgments Project with a view to preparing an additional instrument. The Experts' Group will be convened soon after the Special Commission has drawn up a draft Convention.
14. The Council confirmed that this is a priority project for the Conference.

Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements (Parentage / Surrogacy Project)

15. The Council welcomed the Report of the Experts' Group on Parentage / Surrogacy. Noting the progress made at the Group's first meeting, the Council invited the Group to continue its work in accordance with its mandate of 2015, and requested the Permanent Bureau to convene a second meeting of the Group before the next meeting of the Council. The consideration of the feasibility should focus primarily on recognition. The Group will report to the Council in 2017.

Cross-border recognition and enforcement of agreements reached in the course of family matters involving children

16. The Council welcomed the Report of the second Experts' Group meeting on cross-border recognition and enforcement of agreements in family matters involving children.
17. The Council decided to mandate the Permanent Bureau to develop a non-binding "navigation tool" to provide best practices on how an agreement made in the area of family law involving children can be recognised and enforced in a foreign State under the 1980, 1996 and 2007 Hague Conventions. The work shall be carried out in consultation with members of the Experts' Group; if necessary, a meeting of the Group may be convened.
18. The need for and feasibility of developing a binding instrument in this field will be revisited by Council in 2017, based on further information which will result from the work on the navigation tool.

Co-operation in respect of protection of tourists and visitors abroad

19. The Council welcomed the readiness of the Government of Brazil to fund the hiring of an expert to the Permanent Bureau, for the purpose of conducting a study on the desirability and feasibility of further work in this area, taking into account, *inter alia*, the compatibility of the topic with the mandate of the Hague Conference and work conducted in other fora. Upon receipt of the funds, the Permanent Bureau will organise the hiring of the expert. The Permanent Bureau will report to Council in 2017.

Use of video-link and other modern technologies in the taking of evidence abroad

20. The Council welcomed the report of the Experts' Group and endorsed the formation of a small sub-group, suitable for developing and drafting a Guide to Good Practice, including detailed country profiles, and, to the extent thought appropriate by the sub-group, soft law instruments such as model rules and model practice notes (for courts), as well as model legislative guides for submission to the Experts' Group. The Permanent Bureau will report to Council in 2017 as to the progress made by the Experts' Group.

Recognition and enforcement of foreign civil protection orders

21. The Council welcomed the oral update provided by the Permanent Bureau. The Council invited the Permanent Bureau, subject to available resources, to continue exploratory work on this topic and to prepare a short note to the Council in 2017.

Cohabitation outside marriage

22. The Council welcomed the oral update on the progress made on the preparation of a questionnaire relating to cohabitation outside marriage, including registered partnerships. As decided by the Council in 2015, the Permanent Bureau will present a report to the Council in 2017.

Joint proposal of the Secretariats of UNCITRAL, Unidroit and the HCCH for co-operation in the area of international commercial contract law (with a focus on sales)

23. The Council welcomed the proposal submitted by the Secretariats of the HCCH, UNIDROIT and UNCITRAL. The Council directed the Permanent Bureau to co-operate with the Secretariats of UNCITRAL and UNIDROIT in preparing an explanatory text in the area of international commercial contract law (with a focus on sales). The Permanent Bureau will report to Council in 2017 on progress made. In welcoming the proposal, Council noted that the envisaged costs for the Hague Conference relating to this co-operation are minimal.

Proposal of WIPO on the development of a resource tool addressing the intersection between private international law and intellectual property law

24. The Council welcomed the proposal submitted by WIPO of developing a resource tool addressing the intersection between private international law and intellectual property law, in co-operation with the Hague Conference. The Council directed the Permanent Bureau to assist in this project. Members were invited to provide the Permanent Bureau with suggestions regarding experts or issues to be considered. The Permanent Bureau will report to Council in 2017 on progress made. In welcoming the proposal, Council noted that the envisaged costs for the Hague Conference relating to this co-operation are minimal.

Post-Convention activities

1980 Child Abduction and 1996 Child Protection Conventions

25. The Council welcomed plans to convene a meeting of the Special Commission on the practical operation of the 1980 Child Abduction and the 1996 Child Protection Conventions, tentatively scheduled to be held in October 2017.
26. The Council welcomed the progress of the Working Group in developing a Guide to Good Practice on the interpretation and application of Article 13(1)(b) of the 1980 Child Abduction Convention, and invited the Group to continue its work. The Permanent Bureau will report to Council in 2017 on progress made.
27. The Council welcomed the plans to hold a fourth Meeting of the Malta Process (Malta IV), to be held in May 2016 in Valletta, Malta.
28. The Council welcomed the report of the Working Party on Mediation in the context of the Malta Process, as presented on behalf of the co-Chair, Mr William R. Crosbie of Canada. The Council welcomed the engagement by the members of the Working Party and agreed that the Working Party continue its work on the implementation of mediation structures and the establishment of Central Contact Points, with the expectation of a further report to the Council in 2017.

2007 Child Support Convention

29. The Council directed the Permanent Bureau to consult the members of the former Forms Working Group under the 2007 Child Support Convention on a new recommended form for specific measures with a view to finalising and publishing it.

1993 Intercountry Adoption Convention

30. The Council noted the Conclusions & Recommendations of the Special Commission on the practical operation of the 1993 Intercountry Adoption Convention held in June 2015, and mandated the Permanent Bureau to continue its work as set out in Preliminary Document No 4A.

31. The Council endorsed the Model Survey for Adoptive Parents, developed by the Experts' Group on the Financial Aspects of Intercountry Adoption. It also encouraged the Central Authorities under the 1993 Convention to administer the Survey and to complete the Tables on Costs.
32. In light of concerns expressed by some Member States, the Council decided to revisit the issue of the feasibility of developing a Global Survey for Adoptive Parents at its next meeting.
33. The Council noted the importance of technical assistance in relation to the implementation of this Convention and the need to secure funding to continue the Intercountry Adoption Technical Assistance Programme ("ICATAP").

2000 Adults Convention

34. In light of the oral report on progress made, the Council encouraged States that are not yet Contracting States to the 2000 Convention on the International Protection of Adults to join the Convention.

1961 Apostille Convention

35. The Council welcomed plans to convene a meeting of the Special Commission on the practical operation of the 1961 Apostille Convention, to be held in conjunction with the 10th International Forum on the e-APP, tentatively scheduled to be held in the last quarter of 2016.

1965 Service and 1970 Evidence Conventions

36. The Council welcomed the publication of the updated edition of the Practical Handbook on the Operation of the Service Convention and the new edition of the Practical Handbook on the Operation of the Evidence Convention.

2005 Choice of Court Convention

37. The Council welcomed the entry into force of the 2005 Choice of Court Convention.
38. The Council expressed its continued support for the promotion of the Convention, and encouraged more States to join the Convention.

2015 Hague Principles

39. The Council welcomed the work accomplished by the Permanent Bureau in relation to the promotion of the 2015 Hague Principles, and expressed its support for the continuation of promotional work.

Post-Convention assistance

40. The Council welcomed the achievements of the Permanent Bureau in the areas of education, training and technical assistance in relation to the Hague Conventions.

e-tools

41. The Council welcomed the work accomplished by the Permanent Bureau in relation to the electronic tools established under the 2007 Child Support Convention (iSupport), the 1980 Child Abduction Convention (INCADAT, INCASTAT) and the 1961 Apostille Convention (e-APP) and encouraged States to support the work in these areas.

Minutes

42. The Council noted the importance of minutes of its meetings, but in view of the resources required invited the Permanent Bureau to explore alternatives, including the use of digital recording.