

MISE À JOUR DU PLAN STRATÉGIQUE

établie par le Bureau Permanent

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STRATEGIC PLAN UPDATE

drawn up by the Permanent Bureau

*Document préliminaire No 5 de mars 2009 à l'intention
du Conseil de mars / avril 2009 sur les affaires générales et la politique de la Conférence*

*Preliminary Document No 5 of March 2009 for the attention
of the Council of March / April 2009 on General Affairs and Policy of the Conference*

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INTRODUCTION

Commission I on General Affairs and Policy of the Nineteenth Diplomatic Session, at its meeting of 22-24 April 2002, agreed that the implementation of the Strategic Plan of the Hague Conference on Private International Law, whose main directions Commission I supported, "should be reviewed on a regular basis by the organs responsible for General Affairs and Policy [...]".¹ This decision was confirmed by the Nineteenth Session in December 2002 and is reflected in the Final Act of 13 December 2002 of that Session under B.2.

This Note provides a summary overview of the implementation of the Strategic Directions set out in Chapter IV of the Strategic Plan from April 2008 until March 2009. As mentioned in the Strategic Plan, the purpose of the Strategic Directions of the Plan is to assist the Permanent Bureau and the Members of the Organisation in continuing to adapt to the changing and growing demands on the work of the Hague Conference. They provide a framework for the way in which the Hague Conference carries out its mission and operations; the content of the work programme of the Conference at any particular time remains a decision for the Council on General Affairs and Policy. The Strategic Plan supports the Organisation's budget planning for the coming years.

IMPLEMENTATION OF THE STRATEGIC DIRECTIONS

Strategic Direction 1

Increasing the global coverage of the Conference

Membership

- The Conference now has 69 Members:
 - India has accepted the Statute during the last twelve months.
 - Costa Rica (2002), Zambia (2004) and Colombia (2006) have been admitted but still need to accept the Statute. Pending the acceptance of the Statute by these States, they are being invited to attend meetings of the Hague Conference as observers.
- The Permanent Bureau continues to work towards increasing the Membership of the Hague Conference in a considered way as provided under paragraph [405] of the Strategic Plan.

Global coverage of Hague Conventions

- There are now 129 States in all parts of the world that are Contracting States to one or more Hague Conventions.
- Efforts were made, including the establishment of special funds to support attendance by experts from less-developed States, to ensure that a large number of non-Member States were involved in the 2 – 12 February 2009 Special Commission on the practical operation of the Apostille, Service, Evidence and Access to Justice Conventions (more than 200 experts from more than 60 States attended the Special Commission). Similar efforts are underway for the next Special Commission on the implementation of the 2007 Child Support Convention and Protocol on the Law Applicable to Maintenance.

¹ See "The Hague Conference on Private International Law Strategic Plan", drawn up by the Permanent Bureau, April 2002, para. [008] which can be consulted on the Hague Conference website at < www.hcch.net > under the horizontal menu item "About HCCH".

- The Special Programme for Latin American States for the promotion and training in respect of Hague Conventions has completed a fourth year.²
- A regional conference jointly organised with the Government of the Hong Kong Special Administrative Region involving 27 countries of the Asian and Pacific regions was held in Hong Kong in September 2008 (Australia, Bangladesh, Bhutan, Cambodia, China, Cook Islands, Fiji, India, Indonesia, Japan, Republic of Korea, Lao PDR, Malaysia, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, Timor-Leste, Tonga and Viet Nam).³
- A Judicial Conference was held in Brussels on 15 and 16 January 2009 on Direct Judicial Communications on Family Law Matters and the Development of Judicial Networks, jointly organised by the European Commission and the Hague Conference, which involved more than 140 experts, principally judges, from more than 50 States.
- The Third Malta Judicial Conference on Cross-frontier Family Law Issues which will be held in St. Julian's, Malta, from 24 to 26 March 2009 will be attended by more than 80 experts from more than 25 States. The proceedings will be held in English, French (the official languages of the Hague Conference) and Arabic.

Regional presence

- Further to the Third Asia Pacific Regional Conference where it was recommended "to encourage the Permanent Bureau, in co-operation with Member States in the Region, to consider ways in which its presence and representation in the Region might be strengthened" consultations are underway with these States concerning the possibilities for the establishment of such regional presence in one of those Member States.
- Consultations are also underway with various States in the Latin American Region on the idea of further reinforcing the regional presence of the Conference, building upon the successful work carried out by the one-person office of the Legal Liaison Officer for Latin America.

Visibility

- The Conference continues to modernise its website – more than 9,500 pages are visited daily (more than 1,550 different visitors per day) – with a view to facilitating bilingual usage, and making all the information accessible through a database, including documents in languages other than the official languages of the Conference. During the first part of 2009, most of the information on the website will be available in Spanish through autonomous pages. Information in other non-official languages will be available with only one click from anywhere on the website.
- During the last year, the Secretary General and members of the Permanent Bureau made official visits to, lectured or gave seminars in: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Cambodia, Canada, Chile, China (Hong Kong SAR), Colombia, the Czech Republic, Denmark, Egypt, France, Georgia, Germany, Guatemala, Honduras, India, Italy, Jordan, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Morocco, the Netherlands, New Zealand, Norway, Oman, Panama, Peru, Philippines, Portugal, the Russian Federation, Slovenia, Spain, Suriname, Switzerland, Ukraine, the United Kingdom, the United States of America, Uruguay and Viet Nam.

² See draft Annual Report 2008, Prel. Doc. No 12 of March 2009, drawn up by the Permanent Bureau for the attention of the Council of March / April 2009 on General Affairs and Policy, Chapter IV.

³ *Ibid.*

- During the past 12 months the Permanent Bureau welcomed interns and officials on secondment from the following countries: Argentina, Australia, Canada, China, France, India, Singapore and the United States of America.
- On 18 September 2008 the Conference celebrated its 115th anniversary. The ceremony was attended by the Minister of Law and Justice of the Union of India – India having joined the Conference in March 2008 – as well as representatives of the Ministers of Justice of France (EU Presidency) and of the Netherlands. On the occasion, in addition to France ratifying the 2000 Adults Convention, Finland, Greece, Ireland, Luxembourg and Poland signed this same treaty.
- A new edition of the Collection of Hague Conventions, including the revised version of the Statute of the Hague Conference, the *Convention of 30 June 2005 on Choice of Court Agreements*, the *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* and the *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations* will be released in March 2009.
- A new edition of the "*Recopilación de Convenios de la Conferencia de La Haya de Derecho Internacional Privado (1951-2007) Traducción al Castellano*" by Julio D. González Campos and Alegría Borrás was published.
- The Chinese Government prepared a translation into Chinese of the complete collection of Hague Conventions.
- Discussions have started with the Governments of Portugal and Brazil about the possibility of establishing translation in Portuguese of the Hague Conventions through a joint effort of Portuguese-speaking countries.
- During the 115th anniversary celebrations, the Conference was honoured by the admission of the Secretary General, Hans van Loon, as Officer in the Order of Orange-Nassau.

Strategic Direction 2

Being selective in relation to the projects undertaken by the Conference and consolidating post-Convention services

The Conference continues to focus equally on its two core activities – the development and the monitoring of Conventions, including the provision of unique post-Convention services. At the same time it is increasingly engaged in providing education, training and technical assistance aimed at promoting and improving the implementation and application of Conventions by judges, Central Authorities and others.

Development of Conventions

- Further to the adoption on 23 November 2007 of the *Convention on the International Recovery of Child Support and Other Forms of Family Maintenance*, a draft Explanatory Report on the Convention was circulated in May 2008 to Heads of Delegations to the Twenty-First Session for their comments. As the last comments were received in October 2008, a revised version of that Explanatory Report will be circulated in early spring 2009.
- Further to the adoption on 23 November 2007 of the *Protocol on the Law Applicable to Maintenance Obligations*, a draft Explanatory Report on the Protocol was circulated in November 2008 to Heads of Delegations to the Twenty-First Session for their comments. A revised version of that Explanatory Report will be circulated in early spring 2009.
- Feasibility studies are under way on the possible development of instruments concerning: (1) cross-border mediation in family matters; (2) choice of law in

international contracts; and, (3) cross-border co-operation on the treatment of foreign law.⁴

- Other possible topics for future work include: (1) private international law aspects of cohabitation outside marriage and registered partnership; (2) application of certain techniques for international co-operation developed by the Hague Conference on Private International Law to issues of international migration; (3) a proposal for a draft Protocol to the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*; and, (4) development of a Protocol to the *Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* to deal with the international recovery of maintenance in respect of vulnerable persons.

Post-Convention services

- The Special Commission on the practical operation of the Apostille, Service Evidence and Access to Justice Conventions met from 2 to 12 February 2009 and unanimously adopted 100 Conclusions and Recommendations.
- A new volume of the *Proceedings of the Nineteenth Session, Tome I, Miscellaneous matters*, was released in late March 2008.
- For a detailed account of the post-Convention services concerning the Children's Conventions, Maintenance, Adults and Cohabitation see Preliminary Document No 6 drawn up for the attention of the Council on General Affairs and Policy of 2009.
- In August 2008, Part I of the Guide to Good Practice under the 1993 Intercountry Adoption Convention was published in book form. Part I deals with the implementation and operation of the 1993 Intercountry Adoption Convention. A Spanish version of the Guide will be available by the end of March 2009.
- In December 2008, *Transfrontier Contact Concerning Children* was published in book form. This publication deals with general principles and good practice on transfrontier contact concerning children. It relates both to the 1980 and 1996 Conventions. An Arabic version of the Guide will be available during the course of March 2009 and a Spanish version during the Spring of 2009.
- Work is underway with regard to the Guide to Good Practice under the 1980 Child Abduction Convention to finalise Part IV on the enforcement of orders made under the 1980 Convention.
- Work is underway with regard to the Guide to Good Practice under the 1993 Intercountry Adoption Convention to develop Part II on Accreditation.
- Work on a Practical Handbook on the Operation of the 1996 International Child Protection Convention is well underway. A Checklist on the implementation of the 1996 Convention has been completed.
- Work with regard to the development of a Practical Handbook for Case Workers under the 2007 Child Support Convention is well underway as well as a Checklist on the Implementation of the Convention.
- Work is underway to finalise a comprehensive Practical Handbook on the operation of the Apostille Convention.
- Work is underway to develop sections of a possible future Practical Handbook on the operation of the Evidence Convention.
- In October 2008, a Model Law of Procedure for the Application of the 1980 International Child Abduction Convention for Latin American States was

⁴ See Prel. Docs Nos 2, 7 and 11 drawn up by the Permanent Bureau for the attention of the Council on General Affairs and Policy of 2009.

launched by the Hague Conference and the Inter-American Children's Institute (IIN) simultaneously from Buenos Aires and Ottawa.

- The International Child Abduction Database (INCADAT) website now includes 995 summaries in English and French and more than 800 summaries in Spanish. During the past 12 months efforts were made to expand the commentary section with a view to compare and contrast other case law. In the coming months the presentation of the INCADAT website will be improved.
- The iChild electronic case management system (donated by WorldReach Software (Canada)) in relation to the 1980 Convention on Child Abduction is now implemented in more than 10 Central Authorities and further implementation efforts are under way.
- The Permanent Bureau has supplemented its website to collect the statistics of the States Parties to the 1980 Convention on Child Abduction for the purpose of the International Child Abduction Statistical Database (INCASTAT). INCASTAT is available directly to more than 90 Central Authorities in a new database environment since March 2009.
- During the past year, the Adoption Section of the website of the Hague Conference was expanded by the addition of a section where country profiles would be posted.
- Work began on the collection of statistics from States Parties to the 1993 Inter-country Adoption Convention for the purpose of establishing a special database on the subject: ICASTAT which will be available directly to Central Authorities on a secured page of the website of the Hague Conference.
- Work relating to the promotion and implementation of the electronic Apostille Pilot Program (e-APP) is ongoing. Six jurisdictions have implemented at least one of the two components of the e-APP; several others are actively studying the e-APP.
- The Permanent Bureau published Volume XIII of *The Judges' Newsletter on International Child Protection*, the focus of which was the Hague Conference International Centre for Judicial Studies and Technical Assistance, the 1993 Hague Convention on Inter-country Adoption and judicial communications. All the volumes of *The Judges' Newsletter* are available in English and French, as well as some in Spanish, on the Hague Conference website.
- The Permanent Bureau continues its work on direct international judicial communications under the 1980 Convention and continues to be involved in the organisation of judicial seminars.
- With the assistance of a group of experts, drawn primarily from the judiciary, which met from 3 to 4 July 2008, the Permanent Bureau has drawn up draft general principles concerning direct judicial communications which were the subject of discussions at the Brussels 15 – 16 January 2009 Joint EC-HCCH Judicial Conference on Direct Judicial Communications on Family Law Matters and the Development of Judicial Networks.
- During the last year, judges from Chile, the Dominican Republic, Ecuador, Panama and Peru were designated to the International Hague Network of Judges which now includes 40 Network Judges from 26 States.
- Exploratory work and funding efforts continue on the possible development of the iSupport electronic case management and Internet-based communication system in support of the 2007 Child Support Convention and its Protocol on Applicable Law.
- The Permanent Bureau continues to receive and answer a steadily increasing number of governmental and individual requests relating to the practical

operation of, in particular, the Abduction, Adoption, Child Support, Service, Evidence and Apostille Conventions.

- Editions of the Practical Handbook on the Service Convention in Chinese (two versions), Portuguese and Spanish are underway; editions of the Handbook in Romanian and Ukrainian are being explored.

Legal education, training and technical assistance

- The Permanent Bureau has facilitated international judicial seminars and conferences such as the Joint EC-HCCH Judicial Conference on Direct Judicial Communications on Family Law Matters and the Development of Judicial Networks, held in Brussels on 15 and 16 January 2009 and the Third Malta Judicial Conference on Cross-frontier Family Law Issues which will be held in St. Julian's from 24 to 26 March 2009.
- The Permanent Bureau also actively participated in training and legal education activities organised by: the United Nations Children's Fund (UNICEF), the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organisation (WTO), the Organisation of American States (OAS), the Organisation for Security and Co-operation in Europe (OCSE), the International Social Service (ISS), the Council of Europe, the European Parliament, the Association of Southeast Asian Nations (ASEAN), the International Association of Women Judges (IAWJ), the International Bar Association (IBA), the International Law Association (ILA), the Inter-American Bar Association, Lawasia, *Terre des Hommes*, the National Child Support Enforcement Association (NCSEA), the National Notary Association (NNA) and the International Association of Judicial Officers (UIHJ).
- Through the training and technical assistance programme for the effective implementation of the 1993 Intercountry Adoption Convention (ICATAP), the Permanent Bureau is providing extensive technical assistance to Guatemala and Cambodia. Assistance has also been requested by: Azerbaijan, Kenya, Mauritius, Mexico, Namibia, Nepal, Panama and Viet Nam. The programme is financed through the Supplementary Budget.
- Through the International Child Abduction and Child Protection Assistance Programmes, assistance was jointly organised by the Hague Conference and the Ukrainian-European Policy and Legal Advice Centre (UEPLAC) upon the request of the Ukrainian Government.

In consolidating its post-Conventions services, the Conference will continue to develop partnerships with States, governmental and non-governmental organisations, academic and research institutes, and will continue to concentrate its efforts on activities for which it brings added value. The Permanent Bureau continues its work for the establishment of more systemic training programmes through the Hague Conference International Centre for Judicial Studies and Technical Assistance.

Partnerships with States and governmental and non-governmental organisations

- Through the Supplementary Budget and other *ad hoc* funding requests (Intercountry Adoption Technical Assistance Programme, Conferences and Judicial seminars including the Third Asia Pacific Regional Conference, the Joint EC-HCCH Judicial Conference and the Third Malta Judicial Conference), the Conference received during the last year (1 April 2008 – 31 January 2009) support by way of contributions or donations from the following States: Argentina, Australia, Canada, China (Hong Kong SAR), Croatia, Finland, Germany, Ireland, Monaco, Montenegro, Netherlands, Norway,

Romania, Spain, Sweden, Switzerland, United Kingdom, the United States of America and the European Commission (see L.c. A No 1(09) of 26 February 2009 and L.c. ON No 9(09) dated 26 February 2009).

- During the celebrations of the 115th anniversary of the Hague Conference, the Government of the Netherlands announced its decision to grant to the Hague Conference 500,000 Euros to secure the operations of the Hague Conference International Centre for Judicial Studies and Technical Assistance.
- Two secondments of State officials were arranged with Canada, one with the *Gouvernement du Québec* (part-time since September 2005) and one with the Government of British Columbia (full-time from October 2008 until April 2009).
- One intern from the *Barreau du Québec* was funded by the *Gouvernement du Québec*, Canada (6 months – from September 2008 to March 2009).
- The second intern under the Peter Nygh Internship Programme joined the Organisation in 2008 (5 months – from September 2008 to January 2009).
- The Ministry of Foreign Affairs of Argentina renewed its support to the Latin-American Programme by providing office facilities to the Liaison Legal Officer.

Partnerships with academic and research institutes

- In 2008, New York University provided two summer students to the Permanent Bureau.
- In 2008, Georgetown University provided one summer student and one autumn intern.
- During the last 12 months different research projects have been undertaken and / or completed with, in particular, Cardiff Law School (United Kingdom) and the University of Aberdeen (United Kingdom). The Permanent Bureau maintains an ongoing co-operation with a number of universities and academic institutions around the world such as the Law Faculty of the *Université Jean Moulin*, Lyon (France), the Law Faculty of the University of Groningen (Netherlands) and the Tohoku University School of Law (Japan).

Strategic Direction 3

Enhancing working methods and reducing costs by providing flexibility in the development process

New working methods

- Meetings by conference calls are increasingly taking place.
- Internet-based systems are used to provide demonstrations of the iChild software, the INCASTAT database and e-APP to interested authorities.
- Videoconferencing is increasingly being used.

Strategic Direction 4

Increasing communication and co-operation with other international organisations

Increasing communication

- The Conference continues to modernise its website with a view to facilitating bilingual usage, and making all the information accessible through a database, including documents in languages other than the official languages of the Conference.

Increasing co-operation

- Preparations for the conclusion of a Memorandum of Understanding with the Asian African Legal Consultative Organization (AALCO) are underway.
- During the past 12 months the Permanent Bureau has intensified its co-operation with other international organisations with regard to horizontal issues for which they have a common interest.

During the last 12 months, the Permanent Bureau co-operated with the following organisations:

International and transnational governmental organisations

- African Union
- Asian African Legal Consultative Organization (AALCO)
- Association of Southeast Asian Nations (ASEAN)
- Bank for International Settlements (BIS)
- *Commission internationale de l'état civil* (CIEC)
- Commonwealth Secretariat
- Council of Europe
- European Central Bank (ECB)
- European Union / European Community
- Inter-American Children's Institute (IIN)
- International Civil Aviation Organisation (ICAO)
- International Institute for the Unification of Private Law (UNIDROIT)
- International Monetary Fund (IMF)
- MERCOSUR
- Organisation of American States (OAS)
- Organisation for Economic Co-operation and Development (OECD)
- *Organisation internationale de la Francophonie* (OIF)
- United Nations Children's Fund (UNICEF)
- United Nations Commission on International Trade Law (UNCITRAL)
- United Nations Committee on the Rights of the Child (UNCRC)
- United Nations Conference on Trade and Development (UNCTAD)
- United Nations Development Programme (UNDP)
- United Nations Environment Programme (UNEP)
- World Bank
- World Intellectual Property Organisation (WIPO)
- World Trade Organisation (WTO)

It is important, in particular, to mention the annual co-ordination meeting between the heads of the Secretariats of UNCITRAL, UNIDROIT and the Hague Conference.

International non-governmental organisations

- American Association of Private International Law (ASADIP)
- *Association Africaine des Hautes Juridictions Francophones*
- *Association des Hautes Juridictions de cassation des pays ayant en partage l'usage du français*
- *Association internationale de droit judiciaire* (AIDJ)
- *Association internationale francophone des intervenants auprès des familles séparées* (AIFI)

- *Association internationale des Magistrats de la Jeunesse et de la Famille* (AIMJF)
- Australian & New Zealand College of Notaries (ANZCN)
- ChildONEurope
- Conference of Central Securities Depositories
- Defence for Children International (DCI)
- Euradopt
- European Federation for Missing and Sexually Exploited Children
- European Network on Parental Child Abduction
- Financial Market Lawyers Group (FMLG)
- Inter-American Bar Association (IABA)
- International Academy of Matrimonial Lawyers (IAML)
- International Association of Judicial Officers (UIHJ)
- International Association of Women Judges (IAWJ)
- International Bar Association (IBA)
- International Centre for Missing and Exploited Children (ICMEC)
- International Chamber of Commerce (ICC)
- International Foster Care Organisation (IFCO)
- International Law Association (ILA)
- International Swaps and Derivatives Association (ISDA)
- International Social Service (ISS)
- International Society of Family Law (ISFL)
- International Union of Latin Notaries (UINL)
- Latin American Foster Care Network (RELAF)
- Lawasia
- Nordic Adoption Council
- US-Mexico Bar Association
- World Legal Forum

Strategic Direction 5

Enhancing the management of internal information

- The Permanent Bureau continues its implementation of a 2003 Report on the management of internal information and documents, prepared by an outside consultant, in order to increase corporate memory, consolidate the filing system (including electronic filing), enhance the maintenance of the library and improve the use of computer technology to that effect (see para. [437] of the Strategic Plan).
- During the past year, the Permanent Bureau completed the reorganisation of its paper files and archives systems using a consistent and coherent classification numbering system resulting in an effective and logical system. Work is underway to make the classification system bilingual.
- Since this year, the existing paper files and archives of the Permanent Bureau are all available in an electronic format based on optical character recognition (OCR) technology.
- The Permanent Bureau has completed the updating of its electronic document management system which makes possible the central filing of any scanned paper document and any kind of electronic document including e-mails. Moreover, this new system will facilitate and accelerate the retrieving of documents through an OCR technology.

Strategic Direction 6

Matching resources and demands by making the decision process more transparent and informed and by increasing the capacity to seek additional funding

- The Council on General Affairs and Policy of the Conference, which will meet on 31 March to 2 April 2009, will have before it for its information a Proposed Budget for Financial Year LV (1 July 2009 – 30 June 2010) (see Strategic Plan, para. [427]), see Preliminary Document No 9.
- An interim Report on the Supplementary Budget for Financial Year LIV (1 July 2008 – 30 June 2009) was sent to Member States in February 2009 (L.c. A No 1(09) and L.c. ON No 9(09)) and a Proposed Supplementary Budget for Financial Year LV (1 July 2009 – 30 June 2010) will be presented to the Council of Diplomatic Representatives, and, for information, to the Council on General Affairs and Policy of the Conference on 31 March to 2 April 2009 inviting all Members to make voluntary contributions to provide funding for activities not covered by the regular budget, see Preliminary Document No 10.
- With regard to the workload, timelines and budget implications for 2009-2010 in relation to the projects concerning the Children's Conventions, Maintenance, Adults and Cohabitation, see Preliminary Document No 6.
- The Secretary General in consultation with the Joint Pensions Administrative Section of the Co-ordinated Organisations continues to study ways to stabilise the pension situation of the Conference. A Draft proposal for submission to the Council of Diplomatic Representatives was discussed by a Working Group consisting of diplomatic representatives of Member States on 11 March 2009.