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CONCLUSIONS ET RECOMMANDATIONS DE LA COMMÉMORATION DU CINQUANTENAIRE DE LA CONVENTION APOSTILLE ET TROISIÈME ATELIER RÉGIONAL DU PROJET DE L'*E-APP POUR L'EUROPE*

4-5 octobre 2011, Paris, France

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CONCLUSIONS AND RECOMMENDATIONS OF THE COMMEMORATION OF THE 50TH ANNIVERSARY OF THE APOSTILLE CONVENTION AND THIRD REGIONAL MEETING ON THE *E-APP FOR EUROPE* PROJECT

4-5 October 2011, Paris, France

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"PARIS EVENT"

Commemoration of the 50th Anniversary of the Apostille Convention and Third Regional Meeting on the *e-APP for Europe* Project

Paris (France) – 4-5 October 2011

Hosted by
the Ministry of Justice and Liberties, France

The *e-APP for Europe* project is funded by the European Commission

CONCLUSIONS & RECOMMENDATIONS

Almost 100 government representatives, notaries, judicial officers (*huissiers*), dignitaries and other subject-matter experts from 29 countries and international organisations[1] gathered in Paris, France to commemorate the 50th anniversary of the conclusion of the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention). This event also provided the occasion for the Third Regional Meeting on the *e-APP* (electronic Apostille Pilot Program) *for Europe* project.

The Apostille Convention was concluded on 5 October 1961 and entered into force on 24 January 1965 following the ratification of France, United Kingdom and the former Yugoslavia.[2] With currently 102 Contracting States, the Apostille Convention is the most widely ratified or acceded to Hague Convention; with several million Apostilles issued every year around the globe, it is also the most widely used of all the Hague Conventions.[3]

The participants expressed their gratitude to the Ministry of Justice and Liberties of France for generously hosting the event and were honoured by the presence of the Minister of Justice of France, Mr Michel Mercier, who opened the event together with the Secretary General of the Hague Conference on Private International Law, Mr Hans van Loon. The participants also expressed appreciation to the Secretary for Justice of the Government of the Hong Kong Special Administrative Region, who opened Roundtable I. The participants thanked the National Chamber of Judicial Officers of France and the Superior Council of Notaries of France for their contribution to the commemoration activities.

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[1] See Annex A for a list of participants.

[2] The States that participated in the negotiations of the Apostille Convention are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom, United States of America (as observer) and the former Yugoslavia.

[3] For further information on the Apostille Convention, see the "Apostille Section" of the Hague Conference website <www.hcch.net>.

The participants thanked the European Commission for its financial support of the *e-APP for Europe* project.

The participants unanimously adopted the following Conclusions & Recommendations:

Taking Stock of the Apostille Convention and Considering its Future Direction

1. The participants noted the invaluable and ongoing contribution of the Apostille Convention to the international circulation of public documents and the important advantages it brings to individuals and businesses in the course of their cross-border movements and activities.

2. The benefits of the Apostille Convention are further supported by the fact that the number of Contracting States keeps growing at a considerable rate, with two-thirds of the current Contracting States joining in the last 25 years, and almost 40 States becoming party in the last decade alone. The participants welcomed in particular the growing interest in the Apostille Convention among States in regions that are currently under-represented among Contracting States, such as the Middle East, Southeast Asia and East Africa.

3. The participants also noted that the Apostille Convention has been shown to assist States in establishing conditions more amenable to foreign investment and international trade. In particular, the participants noted with interest the 2010 report of the World Bank entitled *Investing Across Borders*, which surveys foreign direct investment regulation across 87 economies, and which acknowledges the positive impact of the Apostille Convention on the ability of companies to start up foreign businesses.

4. The participants confirmed that neither the spirit nor the letter of the Apostille Convention constitutes an obstacle to the usage of modern technology and that the secure and effective operation of the Apostille Convention are enhanced by relying on such technology.

5. Bearing in mind the work of the European Commission on the free movement of public documents within the Union, the participants considered the benefits of the e-APP as an alternative to abolishing formalities relating to the production in one Member State of public documents executed in another. Whatever the final outcome of this work, the Apostille Convention remains an anchor point for the cross-border transmission of public documents and in any event, will continue to be relevant for public documents executed within a Member State of the European Union bound for Contracting States outside the Union.

6. The participants recalled the important role of Competent Authorities designated by Contracting States under the Apostille Convention, and emphasised that its success is dependent on the diligent and proper performance of their functions. The participants noted the importance of effective co-operation between Competent Authorities to address practical issues. They also noted the significant impact of regular Special Commissions at the Hague Conference to review the practical operation of the Apostille Convention,[4] as well as the monitoring efforts of the Permanent Bureau, on ensuring the effective operation of the Convention.

7. The participants observed that the Apostille system is constantly evolving, with Contracting States reorganising their Competent Authorities and developing new ways to improve access to Apostille services. The participants noted, for instance, that since 2010, France has been considering the operation of its Apostille system, and the potential for modernising how Apostilles are processed, at the national level.

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[4] Such Special Commissions were held in 2003 and in 2009; the next will take place in October 2012. The Conclusions and Recommendations of past Special Commissions are available on the "Apostille Section" of the Hague Conference website .

Third Regional Meeting on the e-APP for Europe project

e-APP in general

8. The participants noted the rapid growth in Europe and the Americas in the number of jurisdictions that have implemented one or both of the components of the e-APP,[5] and the continued interest of other jurisdictions to join. Participants further noted that some jurisdictions have modified existing e-Registers to make them fully e-APP compliant. Participants also noted with interest that new Contracting States are increasingly taking the e-APP into account in their efforts to join the Apostille Convention.

9. The participants strongly reaffirmed common Conclusion & Recommendation No 1 of the Helsinki and Prague meetings, which encourages Contracting States to actively consider implementing the e-APP as an effective tool to further enhance the secure and effective operation of the Apostille Convention.

e-APP for Europe *project*

10. The participants congratulated the Permanent Bureau of the Hague Conference and the Ministry of Justice of Spain as the main partners, as well as the Ministries of Justice of the Czech Republic, Finland and France as associate partners, for achieving the three objectives of the *e-APP for Europe* project within the projected 18-month period.[6]

11. In view of the limited duration of the *e-APP for Europe* project, the participants expressed their appreciation to the Ministry of Justice of Spain for its offer to put the technology and experience it has acquired in developing the Spanish e-APP system at the disposal of any interested State (see also para. 17).

12. The participants acknowledged the benefits that further financial support would bring to the ongoing exchange of experiences, and the implementation of existing models such as the Spanish e-APP system, in the various jurisdictions.

The implementation of the e-APP in Spain

13. The participants noted that implementation of the Spanish e-APP system, which consists of a centralised e-Register and the nationwide issuance of e-Apostilles, has almost been finalised in Spain. Out of the 44 Competent Authorities, 36 have already implemented the new system and the remaining authorities are expected to join very soon. By the end of September 2011, Spanish authorities have issued more than 50,000 Apostilles using the new system (of which almost 4,000 are e-Apostilles). It is expected that the number of e-Apostilles issued by the Spanish authorities will rise as more and more public documents are being issued in electronic form. It should be noted that e-Apostilles issued using the new system have been accepted without difficulty in most States Parties. The General Council of Notaries is currently taking the necessary steps to join the e-Register component.

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[5] As of October 2011, approximately 60 Competent Authorities in the following 12 Contacting States have implemented one or both of the e-APP components in all or in part of their territory: Andorra, Belgium, Bulgaria, Colombia, Dominican Republic, Georgia, Mexico, New Zealand, Peru, Republic of Moldova, Spain and the United States of America. An up-to-date implementation chart is available on the "Apostille Section" of the Hague Conference website.

[6] The *e-APP for Europe* project is part of the general e-APP launched in 2006 by the Hague Conference on Private International Law and the National Notary Association of the United States of America. In May 2010, the Permanent Bureau of the Hague Conference received a grant from the European Commission to undertake the *e-APP for Europe* project with the Ministry of Justice of Spain as a *partner*, and the Ministries of Justice of Finland, the Czech Republic and France as *associate partners*. This 18-month project includes, in particular: 1) holding of the 6th International Forum on the e-APP (which took place on 29 and 30 June 2010); 2) development and implementation of an e-APP system in Spain; and 3) the holding of three regional meetings across Europe (in Helsinki, Prague, and Paris) to encourage all participating States to implement the e-APP, in particular e-Registers.

For more information on the e-APP in general, and the *e-APP for Europe* project, see the "Apostille Section" of the Hague Conference website.

14. The participants also noted that in response to feedback provided by Spanish Competent Authorities, a number of adjustments have been made to the Spanish e-APP system to further adapt it to their needs. Further improvements are expected to be made to the new system in the near future.

15. The participants welcomed the English version of the section of the "Sede electronica" of the Ministry of Justice website, which allows e-Apostilles to be downloaded by the applicant and Apostilles to be verified by the recipient. The participants also noted that the guidelines developed by the Ministry of Justice to assist applicants and recipients of Apostilles have been translated into French and Russian.

Exportability of the Spanish e-APP system

16. The participants noted with great interest that the final version of the memorandum on technical aspects of the exportability of the new Spanish e-APP system is available in English, French and Spanish on the "Apostille Section" of the Hague Conference website. The participants also noted that the user interface of the new system, the user manual, and the Ministerial Order No JUS/1207/2011 of 4 May 2011 regulating the e-Register and the procedure for issuing paper and e-Apostilles under the new system, will also be available soon in English and French.

17. Participants noted with great interest the offer by Spain to put the Spanish e-APP software at the disposal of any interested State, as well as relevant technical documentation. The Spanish e-APP system is composed of software developed by the Ministry of Justice of Spain as well as existing open source components. It also relies on a number of commercial components, chosen due to institutional requirements of the Ministry of Justice. The software developed by the Ministry of Justice, together with its open source components will be distributed free of charge under the European Union Public Licence. Interested States will need to purchase the commercial components used in the Spanish system or, based on the technical documentation on the exportability of the Spanish system, replace these components with other open source or commercial components of their choice.

7th International Forum on the e-APP

18. The participants welcomed the announcement that the 7th International Forum on the e-APP will be jointly organised by the Ministry of Transportation of Turkey and the IT Law Institute of İstanbul Bilgi University, in co-operation with the Permanent Bureau, and will take place in Izmir, Turkey, in June 2012. The participants thanked the Turkish organisers for their efforts in ensuring the continuation of this important series of international events. Further details will be made available in 2012.

Final Conclusions

19. The participants noted that notwithstanding the passage of 50 years since its conclusion, the Apostille Convention remains as relevant as ever to the production of public documents abroad.

20. The participants confirmed the e-APP as a practical and useful application of modern technologies to the secure and effective operation of the Apostille Convention. They concluded that the e-APP enables the Convention to continue to grow from strength to strength.

21. Moreover, the participants noted that the *e-APP for Europe* project has not only succeeded in producing a highly advanced e-APP model, but has facilitated dialogue among States that have expressed interest in the e-APP. In this regard, the participants observed with satisfaction that a majority of Members States of the European Union have participated in at least one of the events organised as part of the project. The participants concluded that the *e-APP for Europe* project has been a success and expressed their hope that its effects will be carried forward.

ANNEXE A / ANNEX A

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