

**RAPPORT DE LA RÉUNION
DU GROUPE DE TRAVAIL SUR L'ASSISTANCE TECHNIQUE**

17 – 18 NOVEMBRE 2011

établi par le Bureau Permanent

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**REPORT ON THE MEETING OF
THE TECHNICAL ASSISTANCE WORKING GROUP**

17-18 NOVEMBER 2011

drawn up by the Permanent Bureau

*Document préliminaire No 3 de février 2012 à l'intention
du Conseil d'avril 2012 sur les affaires générales et la politique de la Conférence*

*Preliminary Document No 3 of February 2012 for the attention
of the Council of April 2012 on General Affairs and Policy of the Conference*

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Introduction

1. This report summarises the discussions of the Technical Assistance Working Group of Members of the Hague Conference which met in The Hague on 17 and 18 November 2011. The Group was convened following the Conclusions and Recommendations of the Council on General Affairs and Policy (“the Council”) at its meeting of 5 to 7 April 2011, which provided for the creation of “an open-ended working group to address the issues involved in the provision of technical assistance” by the Hague Conference and to examine and make recommendations in particular on:

- o the role of the Conference in providing technical assistance;
- o the priorities [both within the Organisation and with respect to providing technical assistance to various States];
- o human resource requirements;
- o funding in relation to technical assistance; and
- o the role of Members, experts and regional offices in providing technical assistance in their respective regions.¹

2. The Working Group comprised experts from 23 Members: a) the “core membership” identified by the Council which included Argentina, Australia, Canada, China, the European Union, Germany, the Netherlands, South Africa,² Switzerland and the United States of America (Chair); and b) other Members electing to participate, including Brazil, Chile, Finland, France, India, Japan, Mexico, Poland (in its capacity as the State currently holding the European Union Presidency), Romania, Russia, the Slovak Republic, Spain,³ Sweden and the United Kingdom (see **Annex 2**, List of Participants). External experts included two representatives from UNICEF and former Deputy Secretary General of the Hague Conference Mr William Duncan.

Opening by the Chair and proposal for Vice Chair (Draft Agenda Part I)

3. The Chair, Ambassador Susan Jacobs, opened the meeting by acknowledging the importance of the technical assistance provided by the Hague Conference. She hoped that over the course of the meeting the Working Group would conclude that technical assistance is an important function of the Hague Conference and would find a secure stream of funding for this assistance. She expressed the view that with the rapid growth in the membership of the Conference and States Parties to Conventions in recent years, and with more countries interested in joining both, a robust programme of technical assistance has become vital to making Hague Conventions operate more effectively for the benefit of all States. Given the challenge of conducting these programmes with the limited resources that are currently available, especially in the present economic climate, the Chair hoped experts would be creative in identifying sources of funding for technical assistance.

4. At the suggestion of the Chair, Mr Rolf Wagner, Head of Division of Private International Law at the Ministry of Justice in Berlin, Germany was elected Vice Chair of the meeting.

¹ See “Conclusions and Recommendations of the Council on General Affairs and Policy (2011)” at para. 11.

² South Africa was unable to attend the meeting.

³ During the meeting, the expert from Spain suggested that it become a part of the “core membership” of the Working Group in light of its significant contributions to the Supplementary Budget.

Scope of the meeting and intended goals (Chair) (Draft Agenda Part II)

5. The Chair briefly laid out the main goals of the meeting: first, to determine whether technical assistance is a core function of the Hague Conference; second, the prioritisation of requests for technical assistance; and third, how to fund this assistance if it is deemed important. She also, as an alternative, advised experts to consider how the Hague Conference would assist countries in effectively implementing or learning about Hague Conventions if it was decided that the provision of technical assistance is not a key function of the Permanent Bureau.

6. The Chair recognised the generous contribution of the Government of the Netherlands to the Supplementary Budget extending over four years and ending on 30 June 2012 as well as UNICEF's provision of funding, expertise and guidance. While other countries have also periodically contributed, the Chair cautioned participants that the Supplementary Budget, out of which technical assistance is essentially funded, lacks a steady source of income. In her view, the challenge for the Conference will be to find a stable stream of funding so that technical assistance requests, if deemed important to the Organisation, can be met.

7. An expert suggested that, given the comprehensive character of the Background Document⁴ provided in advance of the meeting, Items III and IV on the Draft Agenda might be discussed later in the day so as to focus first on the importance and criteria of technical assistance (reserved for the afternoon on the Agenda). The Chair agreed to condense Items III and IV, but to keep the proposed order. She noted that the presentations planned for the morning would help frame the ensuing discussion by highlighting the importance of technical assistance.

Background and history of technical assistance (Introduction by the Permanent Bureau) (Draft Agenda Part III)

8. The Secretary General stressed that the Permanent Bureau has always provided assistance to States Parties to Hague Conventions. In the last decade, however, the Conference has witnessed an unprecedented and rapid growth in both the number of Member and non-Member States Parties to Conventions whose governments lack the requisite infrastructure, expertise or experience to properly implement Hague Conventions, and have turned to the Hague Conference for assistance.

9. He explained that this phenomenon particularly applies to the Hague Children's Conventions, with up to 70% of the technical assistance requested of and provided by the Permanent Bureau concentrated on the 1993 Hague Inter-country Adoption Convention. However, technical assistance with regard to the 1980 Hague Child Abduction Convention, the 1996 Child Protection Convention and the Legal Co-operation Conventions, especially with regard to the 1961 Hague Apostille Convention, also occurs with regularity.

10. Ms Micah Thorner, Director of the Hague Conference's International Centre for Judicial Studies and Technical Assistance ("the Centre"), briefly summarised the Background Document. She cautioned that, while up-to-date at the time of their circulation, the Annexes to the Background Document might be slightly outdated, as the information provided therein is constantly changing.

⁴ Attached as Annex 4.

Presentations

UNICEF

11. Ms Susan Bissell, Associate Director of Child Protection at UNICEF, gave a brief presentation on the working partnership between the Hague Conference and UNICEF at the global level in Latin America, Africa and Asia. She noted that Hague Conventions related to children are powerful instruments in building systems for implementation of the United Nations *Convention on the Rights of the Child* (New York, 20 November 1989) (UNCRC). She noted that never before has the world seen such transnational movement of children, including in scenarios of adoption, trafficking, abduction, etc. She provided examples of instances in which UNICEF has worked closely with the Permanent Bureau in providing technical assistance to both existing and aspiring States Parties to Hague Conventions, for the benefit of all Contracting States and emphasised UNICEF's reliance on the specific expertise of the Hague Conference concerning its Conventions. She stressed UNICEF's strong support for the provision of technical assistance by the Permanent Bureau and hoped that the organisations would continue their collaboration to protect children.⁵

UNICEF Cambodia

12. Ms Souad Al Hebshi, Chief of Child Protection of UNICEF Cambodia, presented UNICEF Cambodia's work in co-operation with the Permanent Bureau in helping Cambodia to adjust its legislation and policy to bring it in line with the obligations imposed on States Parties to the 1993 Hague Intercountry Adoption Convention. She noted the particular success of the division of labour between the Permanent Bureau—supported by several Members of the Hague Conference—and UNICEF, in which the former focused on assistance with developing the necessary national structures, management and capacity building in relation to the 1993 Hague Intercountry Adoption Convention, while the latter worked on the overall national child protection system, in particular the alternative care system. This complementary assistance, as well as the Permanent Bureau's specific expertise, proved invaluable in strengthening the country's child protection system. She also noted the particular help of the Permanent Bureau in facilitating "South-to-South" co-operation among countries in the region.⁶

Spanish Agency for International Development Cooperation

13. Mr Carlos Aragón, Head of Cabinet and Horizontal Programs of the Spanish Agency for International Development Cooperation (AECID), made a presentation on the New Technologies and e-Apostille Seminar held in Guatemala in July 2011.⁷ Mr Aragón noted that the Seminar provides an example of a national development aid agency of one of the Conference's Members taking the initiative in organising, developing and financing a regional event to ensure effective implementation of a Convention. Mr Aragón referred to the partnership between AECID and the Directorate General for the Modernisation of the Administration of Justice under the Spanish Ministry of Justice, which identified the demand for technical assistance regarding e-Apostilles in Latin America and proposed the seminar. He highlighted the exchange of expertise between experts on both sides of the Atlantic.⁸

⁵ For a copy of Ms Bissell's remarks, see **Annex 3**.

⁶ The Powerpoint presentation given is available from the Permanent Bureau upon request. See also Background Report, paras 28-31.

⁷ AECID has also provided substantial support to Latin America in the field of international child abduction and intercountry adoption, in particular by organizing biannual meetings of Central Authorities and other relevant actors.

⁸ The Powerpoint presentation given is available from the Permanent Bureau upon request.

14. The Deputy Secretary General stressed that the Guatemala event, which had a minimal impact on Permanent Bureau resources, is very much a model the Permanent Bureau would like to see replicated in other parts of the world, both in terms of effective use of resources and as an example of a spinoff of a prior project (in this case the electronic Apostille Pilot Programme for Europe (e-APP), funded by a 288,400 Euro contribution from the European Union).⁹

Follow-up to presentations

15. One expert was pleased to hear that the impact of the Guatemala seminar on Permanent Bureau resources remained minimal. He inquired as to the impact of the Cambodia project on the Conference's Regular Budget and noted that the Conclusions and Recommendations of the 2010 Special Commission meeting did not conclusively name technical assistance as a core activity of the Hague Conference.

16. The Permanent Bureau replied that the impact of the Cambodia project on Permanent Bureau resources was 15 working days of one staff member in-country. They further stressed the Bureau's efforts to work with external consultants—funded solely from the Supplementary Budget—as much as possible. The Deputy Secretary General clarified that the 2011 Council had welcomed the achievements of the Permanent Bureau in the areas of education, training and technical assistance in relation to Hague Conventions. The discussion then turned to the importance of technical assistance.

Importance of providing technical assistance (Draft Agenda Part V)

17. Several experts voiced their support for the technical assistance provided by the Permanent Bureau. In particular, they emphasised the invaluable role of the Permanent Bureau in its diplomatic functions, in co-ordinating assistance, in providing for proper and effective implementation of Hague Conventions and as a *neutral* body of specific and unique expertise with regard to Hague Conventions. They emphasised that correct implementation of Hague Conventions is in the interest of *all* States Parties to those Conventions.

18. Experts further highlighted the importance of country-to-country co-operation in administering technical assistance related to Hague Conventions. The assistance given by Chile in Guatemala and Haiti was cited as a model of this framework, in which countries which have had experience implementing Conventions (often having previously received technical assistance from the Permanent Bureau, as was the case with Chile), work with those in the region who need help with implementation.

19. Some experts expressed concern that the provision of technical assistance by the Permanent Bureau deviated from the mandate of the Hague Conference as enshrined in its Statute. While technical assistance is an important tool for facilitating co-operation and providing for proper and effective implementation of Hague Conventions, such work should not compromise the resources of the Permanent Bureau's Regular Budget. These experts were generally supportive, however, of technical assistance activities as covered solely by the Supplementary Budget. In this regard, experts were also heavily in favour of regional and organisational partnerships, which allow human and financial resource considerations of the Permanent Bureau to be defrayed among other stakeholders.

20. The **Working Group concluded** that experts generally concurred as to the importance of technical assistance, but were not unanimous with regard to what extent to which the Permanent Bureau should take on the responsibility of providing that assistance.

⁹ The e-APP for Europe Grant included a contribution of approximately 288,400 Euros from the European Commission and an additional contribution of 120,828 Euros from the Hague Conference and its partners (plus in-kind contributions) for a total of 409,228 Euros.

Scope of activities (Draft Agenda Part IV.b)

21. Several experts expressed a desire to define what is meant by technical assistance. It was noted, however, that the term is particularly difficult to agree on and therefore no precise definition was given in the Background Document beyond a description of “the rendering of assistance to targeted States (or groups of States) specifically related to the implementation and application of Conventions” according to the criteria set out in the document.

22. Some experts felt that the distinction between technical assistance and other forms of post-Convention services was of particular importance. The Secretary General noted that on occasions it was difficult to isolate technical assistance from other post-Convention services provided by the Permanent Bureau. He used the recent Fourth Asia Pacific Conference in Manila—which included promotional activities, technical assistance (including legal / judicial training) and region-specific seminars—as an example of this difficulty.

23. Some experts articulated the need for a more clearly defined policy on technical assistance. A few experts felt that there should be a clearer delineation between judicial and legal training activities—which may be easier to outsource to third parties—and other forms of technical assistance in the form of, for example, diagnostic visits, reviewing draft legislation, consultations with government officials, etc., which call for the Permanent Bureau’s independent and specialised expertise. However, most experts agreed that such division was impractical and that projects often involve both training and general assistance.

24. Some experts highlighted that the responsibility to interpret and implement a Convention lies primarily with the State itself. The Secretary General and Deputy Secretary General assured experts that this principle, and the commitment of the requesting State, is always the basis for any decision to provide technical assistance: the issue is, generally, that the State requesting assistance, while recognising its responsibility to implement and interpret a Convention, needs additional assistance to develop the expertise to fulfil its obligations.

25. One expert suggested the establishment of a formal strategic plan to provide clearer guidance on the various aspects of technical assistance that were discussed by the Working Group. She indicated that ideally this strategic plan could form part of the Hague Conference’s global Strategic Plan,¹⁰ as this would help Members to more clearly weigh the relative importance of technical assistance activities compared to other work and activities of the Organisation. The expert noted that the suggested plan could include a clear statement of policy on the nature and extent of technical assistance; short, medium and long term objectives for technical assistance in line with the mandate and the overall strategic goals of the Hague Conference; explicit criteria for setting priorities and allocating funds to various projects; and indicators for assessing the effectiveness of the assistance provided.¹¹

26. The Secretary General noted that the implementation of the global Strategic Plan is updated on an annual basis. So far, no suggestions had been made to review the Plan. Moreover, he stressed that the statutory goals and the directions of the Strategic Plan applied to a continuously growing and changing organisation, in an increasingly global

¹⁰ The main directions of the Strategic Plan were supported by the Nineteenth Session in 2002. See Hague Conference on Private International Law, *Proceedings of the Nineteenth Session*, Tome I, *Miscellaneous matters*, Final Act, under B 2 a), p. 45, and for the Strategic Plan, pp. 161 – 211 available on the Hague Conference website at < http://www.hcch.net/upload/wop/stratplan_e.pdf >. For an Executive Summary of the 2002 Strategic Plan, see also < http://www.hcch.net/upload/wop/stratplan_e_summary.pdf >.

¹¹ The need for a strategic plan on technical assistance was also reiterated in sections IV, V and XII; however, this view is not restated again in this Report.

environment. The Hague Conference is no longer the small organisation, mostly composed of economically developed countries as it was even twenty years ago; rather, it has become an organisation which, under the influence of global developments, increasingly attracts interest from developing countries and countries with economies in transition. While this development meets the express strategic directions of the Organisation, the consequences in terms of the challenges these countries face when, or after, joining Hague Conventions, had not been fully foreseen.

27. The majority of Working Group experts concurred that technical assistance should be defined in general terms and that focus should be placed on the broader objectives of this assistance, so as to leave flexibility to the Permanent Bureau in determining which activities should be undertaken.

28. It was also noted that using the term “technical assistance” as a mechanism to secure development aid funding has met with uneven success in securing support. The Working Group therefore briefly discussed whether the term should be modified to perhaps more accurately reflect the type of activities it includes, but did not, however, reach a final conclusion.

Criteria for responding to requests (Draft Agenda Part VI)

General discussion

29. At the request of the Working Group, the Director of the Centre briefly explained how the Permanent Bureau currently responds to requests for technical assistance. She referred to Paragraphs 13 to 15 of the Background Document (**Annex 4**), highlighting the importance of the regularly provided—and often elaborate—donor reports in evaluating the effectiveness of activities supported by the Supplementary Budget.¹² She also noted the steps taken to develop budgets for proposed missions before they take place.

30. Experts were generally supportive of the criteria laid out in Paragraphs 13 to 15, although several experts expressed concern that activities supported by earmarked funds might not be subjected to the same criteria as other outstanding requests for assistance and that these criteria did not fully account for prioritisation of the requests themselves. A few experts also noted that some technical assistance projects appear to be demand-driven rather than strategy-driven. With respect to the former point, the Permanent Bureau clarified that funds were often earmarked for general purposes (*e.g.*, “for intercountry adoption technical assistance in Africa” or “cross-border mediation programmes”). While earmarked funds certainly introduce an added complexity, encouraging the contribution of such funds enables donors to fund assistance and training activities that are consistent with their own priorities. Furthermore, earmarked funds have always been accompanied with flexible enough conditions for the Permanent Bureau to use them for efforts consistent with long-term goals and defined priorities of the Organisation.

31. Some experts thought that the criteria should also take into account whether a recipient State, prior to receiving technical assistance, indicates a firm commitment to undertake all reasonable efforts to comply with a particular Convention. The Permanent Bureau assured experts that this criterion is already considered extremely relevant when the priority of a particular request is evaluated.

¹² See, for example, the examples of Guatemala, Cambodia and Haiti provided in the Background Report beginning at para. 26.

32. One expert also noted that designation as an Official Developing Assistance (ODA) State should not be a requirement for obtaining support from the Hague Conference as the goal is to ensure the effective implementation and proper operation of the Hague Conventions. As some requests for training, targeted expertise or other guidance may come from more developed States, these requests should not be ignored, as fulfilling such requests is consistent with the goal of providing such services. The Permanent Bureau affirmed that such requests are, as a matter of course, also fulfilled. The point of identifying some recipient countries as ODA States is to allow donor States to include any funding provided for such assistance as part of their ODA commitments.

33. Some experts felt that the Permanent Bureau should perform a priority assessment of the outstanding requests listed in Annex 2 of the Background Document. One expert thought that a clear, detailed priority matrix in particular could be developed and applied to current and future outstanding requests. He thought that this matrix should take into account whether the project could be considered development aid; the impact of providing the assistance; the number of persons affected; the economic benefits of the provision of assistance; and whether the request is fully funded, among other considerations.

34. The Permanent Bureau was open to considering greater formalisation of prioritisation criteria, but suggested it might be difficult to determine what a matrix should include as well as how to weigh relevant factors—as some criteria may be subjective and / or ultimately unquantifiable

35. The Permanent Bureau also noted that technical assistance priorities must often be adjusted to adapt to fluctuating needs and situations on the ground. In order to adequately assess relevant field conditions, diagnostic visits have become standard practice for the Permanent Bureau before additional resources are committed to develop a more detailed, resource-intensive assistance programme. In addition to providing the opportunity to assess the likelihood of a programme's success and the extent of the assistance needed, such visits enable experts to have a more detailed understanding of the receiving State's needs before committing additional resources.

36. The Director of the Centre urged the Working Group to provide more guidance on the best way to develop a matrix or other method of formalising criteria. Alternatively, an expert suggested that the Permanent Bureau could perhaps be given a more fluid set of guidelines as opposed to a rigid matrix to use when considering requests.

37. As for concerns regarding transparency raised by some Members, one expert suggested that a practical way to ensure greater openness would be to have an independent expert assess the implementation of the Permanent Bureau's technical assistance programme.

38. The Deputy Secretary General highlighted the "common sense" component the Permanent Bureau applies to requests for technical assistance. For example, assistance recently provided to Vietnam immediately prior to another, larger event in the Asia Pacific region¹³ illustrates how the Permanent Bureau considers many factors before committing to resource-intensive technical assistance work. Vietnam's request for immediate assistance earlier this year had been postponed until the holding of another event in the region already necessitating travel to the area. In light of the other event,

¹³ The Hanoi Seminar in October 2011 combined technical assistance with promotional and informational activities aimed at encouraging Vietnam to become a Member of the Hague Conference, and provided guidance on the types of technical assistance available were Vietnam to become a Member. The Seminar was scheduled to immediately precede the Fourth Asia Pacific Conference in Manila.

and the fact that additional funding was provided to cover the supplemental costs pertaining to the seminar in Vietnam, assistance was provided because doing so was clearly the most efficient and effective use of resources under such circumstances. The Permanent Bureau provided additional examples of assistance provided when timing and circumstances minimised the amount of time and money needed for responding to such requests, including the use of video-conferencing as kindly provided by some governments.

39. The majority of Working Group experts generally concurred with the current criteria for responding to requests as expressed in Paragraphs 13 to 15 of the Background Document and stressed the importance of these criteria remaining practical and flexible. Other experts acknowledged the existence of these criteria, but noted that it would have been useful for experts to learn how these criteria would be applied by the Permanent Bureau to the annexed list of pending requests. Others thought there needed to be a distinction between criteria to help decide how to respond to requests and criteria for prioritising competing requests.

Members vs. Non-Members

40. Some experts pointed out that the Strategic Plan as it had been developed in 2002 focused on rendering assistance to Members of the Hague Conference and / or States Parties to various Hague Conventions. They expressed concern that uniformly responding to requests from all States might discourage non-Member / non-Party recipient States from becoming Members of the Hague Conference. One expert suggested that an extra set of guidelines be developed specifically to apply to requests from non-Member / non-Party States.

41. The Permanent Bureau said that experience had demonstrated that providing assistance to non-Member States had encouraged some of those States to join the Hague Conference and / or Hague Conventions. This is directly in line with the strategic goal of the Hague Conference to increase its visibility and global reach and to encourage membership—a goal that often requires specific, concrete efforts on the part of the Permanent Bureau.

42. Technical assistance requests are considered only from States that demonstrate a strong interest in becoming a State Party to the relevant Hague Convention(s) or are already a Contracting State and have shown that such assistance is likely to have an impact and be effective in the requesting State.

43. Non-Member States that request technical assistance are always strongly encouraged to join the Hague Conference. The Permanent Bureau provided the recent examples of the Philippines and Mauritius, both of which became Members in large part as a direct result of the technical assistance offered in those States by the Permanent Bureau.

44. The Permanent Bureau also pointed out that when States become Parties to a Convention and are not immediately capable of properly implementing it, the value of the Convention for all States Parties is threatened. Further, it is often far easier and far less resource-intensive to prepare the field for effective implementation and operation rather than to go into the field when damage has already been done and improper systems have been established, with possible adverse effects to the reputation of the Hague Conference.

Areas of technical assistance work

45. The Working Group agreed to look at criteria and their application with respect to the three main areas of technical assistance work: a) intercountry adoption assistance; b) non-adoption child protection and family law; and c) legal co-operation and litigation.

i) Intercountry adoption

46. The Secretary General noted that the Special Commission on the practical operation of the 1993 Hague Intercountry Adoption Convention had repeatedly recommended that Contracting States, in their relations with non-Contracting States, apply as far as practicable the standards and safeguards of this Convention. He also noted that the Committee on the Rights of the Child has recommended at this point a total of 29 new States to join the 1993 Convention and has urged a number of States Parties to the Convention to seek implementation assistance, in some cases expressly from the Hague Conference. He emphasised that the 1993 Convention puts a heavy burden for implementation on *all* countries of origin, most of which are developing countries.

47. Working Group experts agreed that technical assistance activities falling under the 1993 Hague Intercountry Adoption Convention should include, but not be restricted to: consultation with respect to implementing legislation; advice in the setting up of Central Authorities; training relevant actors and authorities recognised by the Convention; and twinning of Central Authorities. Other experts believed that technical assistance activities should be restricted to those just described. An external expert noted that carrying out diagnostic visits for this Convention is crucial to assess the likelihood of technical assistance work having an impact in the receiving State.

48. It was generally agreed that the Permanent Bureau could, when requested, play a role in co-ordinating the assistance provided by external organisations and States in order to ensure uniform implementation of the relevant Convention.

ii) Non-adoption child protection and family law

49. The Working Group agreed that generally the same criteria applied to assistance under the 1993 Hague Intercountry Adoption Convention should be used to address technical assistance requests under the child protection and family law Conventions. As regards the range of activities administered, in addition to what is provided under the 1993 Convention, experts generally agreed that judicial training should also be provided for these Conventions as they often involve litigation or other proceedings before a judge or magistrate.

iii) Legal co-operation and litigation

50. The Deputy Secretary General clarified that post-implementation technical assistance regarding legal co-operation and litigation Conventions is less frequent than for the family law Conventions. Intervention on the part of the Permanent Bureau only occurs when the operation of a legal co-operation and litigation Convention has become dysfunctional *and* the State concerned has specifically requested Permanent Bureau assistance. Like the other Conventions, it is in the interest of all States Parties that the Hague Conventions are properly implemented and operated.

51. The majority of Working Group experts agreed that criteria for responding to technical assistance requests under the legal co-operation and litigation Conventions should be the same as those applied to other Hague Conventions.

Regional assistance (Draft Agenda Part VII)

Regional Offices

52. The Liaison Legal Officer for Latin America gave a brief presentation on the role of the Latin American Regional Office of the Hague Conference in providing technical assistance.¹⁴ The Office plays an important role in preparing the field for the effective initial implementation of Hague Conventions; facilitating the on-going proper implementation of Conventions specifically in areas which experience systemic operational issues; Convention promotion; and co-ordination and organisation of judicial training. The Liaison Legal Officer mentioned that Regional Office activities gave rise to many technical assistance requests.

53. One of the major achievements of the Latin American Regional Office has been to develop a solid network of Central Authorities and Judges who are familiar with Hague Conventions. Similarly, a major advantage of the Office includes the ability to develop and foster relationships and networks among these and other relevant actors. The Office operates in co-operation with regional stakeholders, National Organs and other Competent Authorities, academic institutions and national and international organisations.

54. One expert expressed concern at the increasing number of requests for technical assistance from Latin American countries. The Liaison Legal Officer stressed that the majority of technical assistance requests require minimal use of human and financial resources and that the Office answers requests according to Hague Conference priorities in light of available resources. When possible, recipient States contribute both financial and in-kind resources (such as venue space).

55. A significant number of requests for technical assistance in the region are fulfilled in conjunction with other missions or programmes so that multiple objectives can be accomplished with as little resources as possible; these practices mirror the flexibility and efficient use of resources employed generally by the Permanent Bureau. Responses to requests are further limited to cases where the relevant State actors have demonstrated their commitment to proper Convention operation and / or implementation.

56. Following the presentation on the Latin American Regional Office, the expert from Hong Kong, China briefly introduced the proposal for the establishment of an Asia Pacific Regional Office in Hong Kong and its possible role in administering and overseeing technical assistance in the Asia Pacific region.¹⁵ The Office would follow the example of the Latin American Regional Office in promoting the Hague Conference and Hague Conventions and provide a point of contact for States in the region. A more established regional presence would further offset some of the expenses pertaining to work already carried out by the Permanent Bureau in the region. Further, many States in the region have already committed to making contributions to the Supplementary Budget for the establishment of the Office.

¹⁴ A detailed report on the Latin American Office was provided to Working Group experts and is available at < http://www.hcch.net/upload/hidden/latamoffice_rpt.pdf > (English only).

¹⁵ The proposal for an Asia Pacific Regional Office was discussed in more detail at the Fourth Asia Pacific Regional Conference held in Manila in October 2011. The final conclusions of the Conference, which include a recommendation for the prompt establishment of the Office, are available on the Hague Conference website at < <http://www.hcch.net/upload/ap4concl.pdf> >. The draft proposal for the Hong Kong office was made available to Working Group experts.

57. While the majority of experts responded favourably to the proposal, a few experts were worried that the Office might not be financially self-sustaining in the long-term. In this regard, they expressed reservations about creating the Office without confirmation of its financial sustainability and the extent of the possible transfer of costs in the long run to the Regular Budget of the Hague Conference. These experts further suggested that countries in the region should take responsibility for the continued fiscal stability of the Office. The expert from Hong Kong mentioned that there would be a comprehensive review of the Asia Pacific Regional Office three to five years after its establishment in order to address these concerns.

58. Some concern was also noted with regard to the ability of the Asia Pacific Regional Office to manage the variety of languages, cultures and legal systems found throughout the Asia Pacific region, which differs from the more homogenous circumstances present in Latin America.

Regional programmes

59. The majority of experts agreed on the importance of regional technical assistance and training initiatives. In particular, experts cited the importance of organising regional events, which provide a vital platform for encouraging and advancing co-operation among States with similar socio-economic, cultural and political features.

60. Some experts also underscored the importance of States themselves providing training and guidance, as well as in-kind and financial support to others in their region. Such efforts alleviate the burden on the Permanent Bureau.

61. As to the relevance of facilitating consultations at the regional level in addition to Special Commissions, the Permanent Bureau explained that such initiatives ensure better preparation of the key issues to be addressed at Special Commissions, allow for regional work to be done on such issues between Special Commissions and encourage regional problem solving, particularly when such efforts are more effective and relevant at a regional level rather than at an international one.

The International Centre for Judicial Studies and Technical Assistance (Draft Agenda Part VIII)

62. The Director of the Centre referred to Background Note Chapter I.D in giving a brief introduction to the Centre and the nature of its work. The Centre was created in 2007 to alleviate operational pressure on the Permanent Bureau's efforts to provide technical assistance and training to an increasing number of requesting States. It currently constitutes an integral part of the Permanent Bureau and is responsible for, among other things, administration of the Supplementary Budget; preparation of donor reports; ensuring compliance with donor requirements and requests; development of public relations materials; management of consultant contracts; drafting initial seminar and training programmes; and identifying and maintaining partnerships with States and other organisations. It also attempts to identify sources of funding for strategic technical assistance initiatives.

63. The work of the Centre was initially financed through a generous contribution of 500,000 Euros from the Netherlands Ministry of Foreign Affairs; efforts to raise additional funds have proven to be moderately successful as a result of this initial contribution. During the past financial year,¹⁶ for example, funding was provided not only by the Netherlands, but also by the following Members: the European Union (European

¹⁶ The Hague Conference financial year runs from 1 July to 30 June.

Commission), France, Italy, Malaysia, Panama, the Philippines and Spain, for a total amount of 333,961.00 Euros. In addition, the Hague Forum for Judicial Expertise, TAIEX and GTZ also provided contributions totalling more than 97,036.38 Euros. This year (FY 2011-12) the Centre has already received 138,789.38 Euros from Members, and a significant amount of additional funding is expected (based on the pledges of various organisations and States).

64. Some experts wondered about the Centre's relationship to the Permanent Bureau, noting that it was effectively indistinguishable from the Permanent Bureau and that there is confusion and a lack of information about its distinct purpose and goals. One expert saw the need for a clearer division of tasks and responsibilities between the Centre and the Permanent Bureau. Another expert noted that a document was presented to the Council¹⁷ in 2003 outlining plans for an "institute" but that no subsequent business plan or other document was drafted to explicitly inform Members of any new developments in this regard. It was further noted that the term "Centre" suggested an entity with some degree of autonomy from the Permanent Bureau, when, in fact, no such autonomy exists.

65. The Director pointed out that the Centre in fact has a certain degree of autonomy within the Permanent Bureau, as it: independently administers the Supplementary Budget; is separately represented at Permanent Bureau meetings; is managed by an Advisory Board of senior Permanent Bureau staff members; makes independent financial recommendations; and does not participate in the legislative activities of the Permanent Bureau. Its purpose is to co-ordinate and manage technical assistance and training seminars. The Director noted that one of the conditions attached to the grant made by the Netherlands Ministry of Foreign Affairs was that the Centre eventually evolve into a self-sustaining entity. The Centre had been set up not just with immediate needs for efficiency of the Permanent Bureau's work in mind, but also in the context of a longer term perspective, including the possibility that, depending on evolving needs and after consultations with Members, it could develop into an independent institution and / or might need to take the form of a separate legal entity as a vehicle to attract certain forms of funding.

66. The Secretary General emphasised the strict procedures followed by the Centre in order to maintain a high degree of transparency and accountability to donors.

The future of the Centre

67. Some experts suggested making the Centre a completely independent non-profit entity. This would potentially solve some of the financial problems faced by the Hague Conference because it might enable the Centre to become eligible for private funding from foundations and other similar sources that require donors to have legal non-profit status.

68. The Secretary General noted that there has been an ongoing dialogue within the Permanent Bureau as to the possibility of creating an independent Centre that would still remain accountable to the Organisation. However, this would have implications, both from a governance and financial point of view and thus would require further study and discussion.

69. The **Working Group concluded** that it was premature to make a recommendation to Council as to the future of the Centre but suggested that the Council generally discuss the matter at its next meeting in April 2012. Some experts noted that the decision not to include any recommendation regarding the future of the Centre did not reflect their approval of the status quo.

¹⁷ In 2003, the Council was known as the Special Commission on General Affairs and Policy. The name of this group has since changed to the Council on General Affairs and Policy; however, here it is sufficient to refer to either simply as "Council."

The future of technical assistance (Draft Agenda IX)

The role of the Hague Conference in providing technical assistance

70. Some experts expressed the view that technical assistance should remain a subsidiary part of the Permanent Bureau and reiterated that the responsibility to properly implement Hague Conventions lies primarily with the State itself (see paragraph 24). In this regard, an expert was of the opinion that creating a specific strategic plan to further define the technical assistance work of the Hague Conference, as mentioned in paragraph 25, would be contrary to the above view that such work exists only as a peripheral function of the Conference.

71. The Secretary General recalled that the Permanent Bureau has always provided support to States implementing Hague Conventions. While the Hague Conference is best known for the excellence of its legal instruments, the Permanent Bureau's work of monitoring and supporting—in addition to generating—Hague Conventions has also distinguished the Organisation in the past. It is the expanding range of States facing difficulties when joining Hague Conventions during the last decade that has led to the demand on the Organisation to provide assistance to targeted States. With relatively minimal use of human and financial resources, and by taking advantage of its unique expertise, the Permanent Bureau is able to bridge the gap between producing Conventions and continuing to benefit the States and individuals that these Conventions are designed to help.

Resource implications (Draft Agenda Part X)

Human resources

72. At the request of experts, the Director of the Centre explained how the Permanent Bureau currently takes the human costs of technical assistance into account. She clarified that the Permanent Bureau first tries to identify the best party to provide the assistance required, which oftentimes is not a staff member of the Permanent Bureau. In this regard, the Permanent Bureau frequently works with external experts and independent consultants as well as in partnership with other organisations. When Permanent Bureau staff members do participate in diplomatic and diagnostic missions or undertake other technical assistance activities, their presence is determined taking into account the scope—the number of participants and/or States involved and the value added by having Hague Conference experts attend—of the event or activity in question.

73. The Secretary General further emphasised the success of partnerships with organisations such as UNICEF in administering cost-effective assistance to States in need. These partnerships minimize the strain on the Organisation's resources in addition to providing value added expertise to the activity in question. Local experts are also often better placed to provide assistance to their respective country or region.

74. In response to a question concerning the quality control regarding recruitment of external consultants, the Permanent Bureau reassured experts that for each consultancy partnership they enter into, tailor-made contracts outlining the scope of the consultant's responsibilities and detailing payment are drawn up. Further, the Permanent Bureau always withholds final payment until the quality of work has been assured. The Permanent Bureau often hires experts it has worked with in the past, maintains a roster of such experts and uses its established network of actors and international partners to identify suitable experts.

The Supplementary Budget

75. Many experts expressed concern about shifting costs paid from the Supplementary Budget to the Regular Budget. While these experts recognised that some human resource costs related to technical assistance are drawn from the Regular Budget, they believed that in principle technical assistance activities should be funded solely by the Supplementary Budget. However, one expert emphasised that costs paid by the Regular Budget should be more transparent.

76. The discussion that followed focused specifically on funding for the ICATAP Co-ordinator, who is currently funded primarily by the contribution from the Netherlands to the Supplementary Budget. Funding for this staff position under the Supplementary Budget ends as of December 2012. While all experts recognised the importance of the position to the successful operation of the 1993 Hague Inter-country Adoption Convention, some experts felt that the financial liability for this position should not be shifted to the Regular Budget. In this regard, experts urged States who support the work undertaken by the ICATAP Co-ordinator to contribute to the Supplementary Budget in order to ensure continued funding for the position.

77. Experts agreed that the loss of the ICATAP Co-ordinator would have a significant adverse impact on the inter-country adoption work of the Conference. The Working Group was therefore urged to think creatively about ways to ensure the sustainability of the position. Suggestions included setting aside overhead in project budgets; having Members provide experts via secondments; and having Member States that contribute to specific projects set aside a certain amount of those contributions to cover staff costs. The Director of the Centre clarified that the Permanent Bureau normally takes into account the cost of overhead and that when funds are not 100% earmarked the Centre includes administrative costs in the expenses of the contribution.

78. In response to the concern mentioned above in para. 75, the Secretary General reminded experts that a transfer from the Supplementary Budget to the Regular Budget has only occurred twice in the history of the Conference, on both occasions with the support of Hague Conference Members.¹⁸ He assured experts of the Permanent Bureau's commitment to maintaining the continuity of technical assistance projects without impacting the Regular Budget. However, the Permanent Bureau further reiterated the extreme difficulty in making a sharp divide between technical assistance as funded by the Supplementary Budget and related work that falls under the auspices of the Regular Budget. For instance, it was pointed out that much of the ICATAP Co-ordinator's tasks fall within what would normally be covered by Regular Budget activities. Likewise, post-Convention services that should fall under the Regular Budget are often funded by the Supplementary Budget because of the difficulty in financing all the core activities of the Conference under the Regular Budget.

The role of the Members, experts and regional offices in providing technical assistance in their respective regions

79. Some experts felt that Member States not Party to those Hague Conventions for which support is provided in the form of technical assistance should assume less

¹⁸ It should be noted that the first transfer from the Supplementary Budget to the Regular Budget (Financial Year L (1 July 2004-30 June 2005), 408, 000 Euros) was *not* concerned with technical assistance to targeted States, but with the general expansion of the work of the Permanent Bureau including general post-Convention projects and services, such as the maintenance of INCADAT and the development of Guides to Good Practice and Practical Handbooks. This substantial transfer was a (partial) response to the finding by PriceWaterhouseCoopers in 2001 of a 30% resource gap between the resources of the Secretariat and the workload. The second, more limited, transfer (Financial Year LVII (1 July 2011-30 June 2012, 55,000 Euros) was concerned with the inclusion of a Legal Officer for judicial and administrative co-operation and litigation, and the Adoption Programme Administrative Assistant (40%) in the Regular Budget. Only the latter transfer of 14,302 EUR was concerned with staffing that (also) supports technical assistance to targeted States (Note by the Permanent Bureau).

responsibility for these programmes' support. In this regard, some experts expressed the opinion that those States that contribute to the Supplementary Budget, as stakeholders, may wish to play a greater role in shaping the focus of the particular technical assistance programmes to which they contributed. However, this view was not shared by all experts.

Funding (Draft Agenda Part XI)

80. The Permanent Bureau provided an overview of the Supplementary Budget, notably its Part II, referring to Annex 3 of the Background Document. The Director of the Centre specified that, unlike the Regular Budget, funds in the Supplementary Budget do not need to be spent within a particular fiscal year. The Chair highlighted the need to make the funding for the Supplementary Budget more consistent and suggested that experts consider what other sources of funding—including private foundations, associations, corporate sponsors and private individuals—might be available.

Member States

81. The majority of experts welcomed the efforts made by the Permanent Bureau in the past in seeking funding. The expert from the Netherlands stressed the importance of individual Members indicating their commitment to find funding and provide in-kind contributions to enable the Permanent Bureau to continue to be capable of pursuing its technical assistance activities beyond 30 June 2012 when the Dutch grant ends.

82. The majority of Working Group experts agreed that despite the difficulties in identifying regular and consistent funding for the Supplementary Budget, they acknowledged the importance of making financial support more predictable. The Permanent Bureau noted that predictability of funding helps significantly with long-term planning regarding technical assistance. The Working Group acknowledged that the current economic situation contributes to the unpredictability of funding.

Development aid agencies

83. The Secretary General recalled that some Members had directed the Permanent Bureau to find funding from States' development aid agencies in the past. The Secretary General further highlighted the Permanent Bureau's successes and challenges in securing this type of funding. One of the difficulties has been that while the technical assistance work carried out by the Permanent Bureau has been proven to operate effectively and contribute substantively to capacity building, the rule of law and good governance—which are often the main priorities of development agencies' programmes—the agencies concerned have sometimes found it difficult to position the innovative, specialised, fine-tuned and low-cost activities of the Hague Conference under their overarching development assistance objectives. It was noted that the development aid agencies of the Netherlands and Spain have provided funding for these activities.

Private funding

84. A few experts expressed reservations regarding private donations. Concerns included the time commitment and expertise required to solicit funds from private sources as well as the conflicts of interest that might arise (or appear to arise) were such funding to become available. Other experts wondered whether Members and their governments might look internally at sources of private funding instead of looking to the Permanent Bureau to identify and reach out to these sources.

85. Experts agreed that the question of private funding may be closely related to the possibility of an independent Centre as discussed in para. 65. Such an entity could take on the form of a tax exempt organisation. This tax exempt status might provide additional options for funding, as preliminary research done by the Permanent Bureau suggests that some foundations and other private donors provide funds only to non-profit tax exempt organisations.

86. Several experts suggested that external private funding should be discussed within the context of an independent Centre, but that at this time there was insufficient information on the relevant managerial and logistical factors to have a fruitful discussion. However, experts were generally not opposed to exploring the idea of private funding and to a “bottom-up” approach, in which uncontroversial private donations would continue to be accepted by the Permanent Bureau. However, a more concrete position would need to be determined later.

87. The **Working Group concluded** that there was agreement that general issues related to private funding and an independent Centre should be explored in more detail at a later date.

Recommendations to the Council on General Affairs and Policy (Draft Agenda Part XII)

88. Some experts voiced concern that the draft Conclusions and Recommendations presented to the Working Group did not adequately reflect the tone or all the issues discussed during the meeting (see Conclusions and Recommendations, **Annex 1**). For these experts, this Report provides additional context and should accompany the Conclusions and Recommendations.

89. The Chair in her concluding remarks noted that despite differing opinions as to the extent to which the Permanent Bureau should provide technical assistance with respect to Hague Conventions, there is general agreement that such assistance is important to the effective implementation and operation of these Conventions. In order to find a way forward, appropriate and adequate funding for technical assistance needs to be secured.

ANNEXES

Working Group on Technical Assistance
17-18 November 2011



Conclusions and Recommendations

Following a request from the Council on General Affairs and Policy in April 2011, the Technical Assistance Working Group convened in the Hague from 17 to 18 November 2011 to address technical assistance provided by the Hague Conference.

While recognising that technical assistance has contributed to the ability of many States to more effectively implement and operate some of the Hague Conventions, the experts did not reach a common understanding on some fundamental issues pertaining to the nature, scope, management and funding of the technical assistance programme.

It was agreed that these Conclusions and Recommendations should be read in the context of the accompanying meeting Report.

The Conclusions and Recommendations of the Working Group are as follows:

1. The Working Group generally concurs as to the importance of technical assistance. However, the experts were not unanimous with regard to the extent to which the Permanent Bureau should take on the responsibility of providing that assistance.
2. The Working Group highlights that the provision of technical assistance, should – as with all other activities of the Hague Conference – stem from the Statute of the Organisation, the Strategic Plan, the main directions of which were supported by the Nineteenth Session (2002), and decisions taken by the Council from year to year.
3. The Working Group notes that currently, technical assistance essentially depends on funding from voluntary contributions and is not generally supported by resources allocated for the preparation of Conventions and other texts and those post-Convention services which would not be considered technical assistance.¹

Forms of technical assistance

4. The purpose of technical assistance provided by the Hague Conference is to assist States in the implementation of the relevant Hague Conventions and their effective and consistent operation. Technical assistance may include, in particular:
 - a. Assist in developing and in reviewing implementation legislation and regulations;
 - b. Provide advice on the creation and functions of Central Authorities and other Competent Authorities;
 - c. Provide training and other operational assistance to Authorities and other relevant actors;

¹ Including, among other activities, support for INCADAT, translations of the Judges' Newsletter, Good Practice and Implementation Guides, Practical Handbooks and the development of iSUPPORT.

- d. Help develop the tools to realise the above activities, by means of diagnostic visits, the use of external consultants, partnerships with other organisations, etc.;
- e. Provide judges with relevant information, training and opportunities for informal exchanges; and
- f. Provide information and advice to countries considering ratification or accession to assist with factors and decisions relevant to effective implementation.

Criteria for responding to requests

5. Bearing in mind that States have the primary responsibility to implement effectively the Conventions to which they are or may become party, the following are, in particular, criteria applied by the Permanent Bureau for responding to requests:
 - a. An official request has been received from the State(s) concerned with a commitment to co-operate fully with the Hague Conference in receiving assistance;
 - b. The request fits into the long-term strategy and the goals of the Hague Conference;
 - c. The Hague Conference is the only and/or best entity to provide the assistance;
 - d. It is reasonable to fulfil the request in light of the current Hague Conference work programme;
 - e. The number of people and/or States affected by fulfilling the request;
 - f. The interest and support expressed by other Contracting States;
 - g. The financial resources required;
 - h. The feasibility and likelihood of success in light of relevant social, political, and economic factors; and
 - i. Willingness in the State concerned to consider the benefits of broader involvement in the Hague Conference.
6. When numerous requests which meet the above criteria are received, the Working Group recognises that prioritisation is central to the Conference's technical assistance work and recommends that the Council consider the means of prioritising current and future requests for technical assistance.

Regional activities and offices

7. The Working Group recognises the value of regional activities and the approach taken to provide technical assistance on a regional basis as exemplified by the Latin American Regional Office in providing judicial training and technical assistance.
8. The Working Group welcomes the proposed establishment of the Asia Pacific Regional Office in Hong Kong, while recognising the importance of the sustainability of the funding of the office.
9. Member States are encouraged to further explore adopting a regional approach in providing technical assistance.

Other sources of assistance

10. The Working Group acknowledges the achievements resulting from the initiatives of the Governments of the Netherlands and Spain, which have included technical assistance in their development co-operation activities, acknowledging that the assistance is valuable both for the implementation of the Hague Conventions and for the development

programmes aimed at capacity building and reinforcing the rule of law. Hague Hague
The Working Group recognises this model could be considered by other countries.

Partnerships

11. The Working Group acknowledges the results achieved in co-operation with UNICEF and other partners, often with the support of Members, in providing assistance to numerous countries.

Funding

12. The Working Group recognises the need for a continuity of funding under the Supplementary Budget. Member States are encouraged to further explore potential funding, including from private sources, as appropriate.

GROUPE DE TRAVAIL DES MEMBRES
WORKING GROUP OF MEMBERS

Liste des participants
List of participants

17-18 novembre / November 2011



Réunion du Groupe de travail des Membres sur l'Assistance technique

* * *

Meeting of the Working Group of Members on Technical Assistance

17-18 novembre – 2011 – 17-18 November

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**Meeting of the Special Commission of The Hague
The Hague
17/18 November 2011**

Dr Susan Bissell
Associate Director, Programme Division and Chief Child Protection
UNICEF

Madame Chair- Ambassador Jacobs, Mr. Secretary-General, Members of the Working Group, Ladies and Gentlemen:

It is an honour to be here today. My colleague and I are humbled – in anticipation - by the wisdom, experience, and expertise in this room. We appreciate the opportunity to join you, to listen and learn, and to offer our reflections, both from a global perspective as well as from ‘the field’. Indeed, we are here on a matter which is central to UNICEF – the protection of children, in all contexts. We are confident that decisions you will take on the basis of the proceedings here will contribute greatly to enabling children and families around the world to live dignified lives, wherever they are.

The Hague Conventions related to children are powerful instruments in building systems for implementation of the Convention of the Rights of the Child (CRC). They are relevant private law instruments in a contemporary world of never-before-seen transnational child mobility. Children are mobile as asylum seekers, victims of abduction, smuggling, trafficking, as legal migrants, and as subjects of inter-country adoption. Children may move with one parent, both...or, increasingly, with none.

What we are really wrestling with in our work to protect children is the intersection of public and private law. This is relatively new for UNICEF, and it’s safe to say ‘we need help’.

Let me give you a few examples:

First, the Child Abduction Convention relates to Articles 8 of the CRC (right to preservation of identity), 9 (right not be to be separated from parents against their will), 10 (States Parties should deal with applications to enter or leave a state for family reunification positively and humanely), and 11 (on measures to combat the illicit transfer and non-return of children abroad). With regard to Article 8 and identity, it is noteworthy that there are currently 220 million children under the age of five right now, in the global south (excluding China) who do not even have a birth certificate.

Second, the Inter-country Adoption Convention corresponds to Article 21 of the CRC. It requires that the adoption of a child is authorized only by competent authorities, that the adoption is permissible in view of the child’s family status, and that the parents or guardians have given their informed consent. These are tenets that you know all so well and they are components of a robust child protection system in all countries. Suffice is to say – there is an incredible amount of work to do in systems strengthening, and precious few human and financial resources to do so.

Third, the Child Protection Convention *inter alia* relates to the responsibility of receiving States to meet the urgent need of refugee children. This includes the right to health care (Article 24 of the CRC), education (Article 28 of the CRC), respect for the child’s cultural and linguistic heritage (Articles 29 and 30 of the CRC) and others. It also refers to alternative care (Article 20 of the CRC) whereby the State in which the child lives, needs to consult with the originating State to establish the best solution with the other contracting State. And of course we have the ‘public’ and somewhat new Alternative Care Guidelines.

Indeed, the Hague Conventions are hugely important to child protection efforts. Those efforts have traditionally been grounded in public international law, but times are changing and the ‘scope to protect’ is expanding in positive ways. Prevention and response are integral to the

Hague doctrines, so too the Convention on the Rights of the Child, its Optional Protocols, and other public instruments.

Madame Chair, whether a State is a party to the Hague Conventions or not, laws and policies nevertheless need encouragement and support to raise them to the highest possible standards. Law reform is but one part of those efforts. As you all know there is much more to be done. Whatever the ratification status of the governments involved, it is in the interests of all parties that processes are transparent and can be easily and correctly completed. Investing in capacity building helps everyone. Importantly, all of this is in the best interests of children. Timeliness and efficiency married with transparency – a perfect combination. For, as we all know, inefficiencies and irregularities help no one. They certainly do not help children.

As we speak the Permanent Bureau holds 50 requests for technical assistance from 42 countries in relation to inter-country adoption, child protection and legal cooperation. It is good to know that there is such a level of interest in the Hague Conventions. At the same time human resource capacity is limited in terms of providing technical assistance. And, goodness knows, there is certainly not enough money.

Madam Chair,

UNICEF strongly supports the Hague Conventions as instruments to protect children, together with the public international law tools that we have amassed. They contribute to reducing the risk of unethical adoptions, for example where birth parents giving up their children do so without free and fully informed consent. They reduce the risk of child trafficking, something we all fight against. They provide a forum through which States can coordinate and respond to child protection risks. If technical assistance is provided to all States who require support, all will benefit from it, but especially children and their families.

We have worked closely with the Permanent Bureau in assisting countries to enable them to contract to the conventions. Recent examples of our collaboration include work in Cambodia, Guatemala, Kenya, Kyrgyzstan, Namibia, Nepal, Panama, South Africa, Azerbaijan, Madagascar, Nigeria, Uruguay, Venezuela, Peru, and Vietnam. UNICEF often plays a brokerage role, to bring the parties to the table. We provide logistic or funding support, and also follow-up with governments upon their request. We also assisted in organising high-level conferences in South Africa for Eastern and Southern African countries, in The Hague for francophone countries, and in Malta for aspiring and existing contracting States. Beyond this, UNICEF also assists States in implementing the Hague Conventions through detailed technical assistance – in the last 12 months, for example, the Inter-country Adoption Convention has entered into force in Kazakhstan, and Senegal, and will do so in Vietnam in February 2012 – these processes have been directly supported by UNICEF country offices. We are very proud of this association and hope to continue this collaboration.

Yet there is a paucity of human resources in this area, able to provide the necessary input to States as they work on their reform processes. UNICEF strongly supports the Permanent Bureau in its work providing technical assistance to existing and aspiring Member States to enable decisions about children's lives to be made correctly, quickly and efficiently.

We look forward to developing our cooperation with all of you to safeguard the best interests and rights of children in all matters relating to the protection of children, wherever they are and wherever they may live.

I pass the floor now to my colleague Souad al-Hebshi who will provide a concrete example of our successful cooperation with the Permanent Bureau, noting in particular the impact of this work on the children of Cambodia. Many thanks.

STRATÉGIE / STRATEGY



**DOCUMENT D'INFORMATION POUR AIDER LA RÉUNION DU GROUPE DE
TRAVAIL SUR L'ASSISTANCE TECHNIQUE**

établi par le Bureau Permanent

* * *

**BACKGROUND DOCUMENT
TO ASSIST THE WORKING GROUP MEETING ON TECHNICAL ASSISTANCE**

drawn up by the Permanent Bureau

Document établi à l'intention du Groupe de travail

Document drawn up for the attention of the Working Group

**DOCUMENT D'INFORMATION POUR AIDER LA RÉUNION DU GROUPE DE
TRAVAIL SUR L'ASSISTANCE TECHNIQUE**

établi par le Bureau Permanent

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**BACKGROUND DOCUMENT
TO ASSIST THE WORKING GROUP MEETING ON TECHNICAL ASSISTANCE**

drawn up by the Permanent Bureau

Introduction

1. From 2 to 3 December 2010, following a decision of the Council on General Affairs and Policy at its 7-9 April 2010 meeting, an open-ended Working Group of geographically representative Members of the Hague Conference on Private International Law convened to discuss possible improvements in the organisation and working methods of the Council on General Affairs and Policy ("the Council"), as well as strategic issues, including funding, relating to the work of the Organisation.¹ During this meeting, the Working Group discussed the evolution of activities of the Conference, which had started with the development of new instruments, supplemented, in a second stage, by the reviewing and monitoring of the practical operation of Hague Conventions and the development of a wide range of implementation, support and promotion activities, and more recently, as a third stage, by the rendering of assistance to targeted States (or groups of States) specifically related to the implementation and application of Conventions ("technical assistance"). While it was concluded that there was broad support for these activities – even to the extent that they were generally seen as essential for the successful operation of the Hague Conventions – given their resource-intensive nature, and some queries expressed by some experts, the Working Group recommended to the Council that a special open-ended geographically representative working group be convened to determine the best way for the Hague Conference to approach the growing demand for technical assistance with the implementation of Hague Conventions.²
2. As a result of this recommendation, the Council adopted at its 5-7 April 2011 meeting Conclusions and Recommendations which provided for the creation of an open-ended Working Group ("Technical Assistance Working Group") to discuss the issues involved in technical assistance as provided by the Organisation, and to examine in particular, the following issues, and make recommendations:
 - o the role of the Conference in providing technical assistance;
 - o the priorities;
 - o human resource requirements;
 - o funding in relation to technical assistance; and
 - o the role of Members, experts and regional offices in providing technical assistance in their respective regions.³

It was agreed that the core membership of this Working Group would consist of Argentina, Australia, Canada, China, the European Union, Germany, the Netherlands, South Africa, Switzerland and the United States of America.

3. The Council decided that the broader issue of resources in general, including matters pertaining to other post-Convention services, would be taken up for discussion at a future date.⁴
4. The purpose of this document is to provide the Technical Assistance Working Group with succinct information on: 1) the development of technical assistance; 2) current

¹ See "Report on the meeting of the Working Group 2-3 December 2010" Prel. Doc. No 5 of March 2011 for the attention of the Council on General Affairs and Policy of the Conference. Members of the Hague Conference which were represented at the December 2010 Working Group meeting included: Albania, Argentina, Australia, Belgium, Brazil, Canada, Chile, China, Czech Republic, the European Union, Finland, France, Germany, India, Japan, Mexico, the Netherlands, the Philippines, Russian Federation, South Africa, Spain, Switzerland, the United Kingdom and the United States of America.

² *Ibid.*, at para. 17.

³ See "Conclusions and Recommendations of the Council on General Affairs and Policy (2011)" at para. 11.

⁴ *Ibid.*, at para. 12.

technical assistance work, including its relationship to other activities of the Conference; 3) human resource implications; 4) funding; 5) the regional dimension of technical assistance; and 6) the question of continuing such work in the future, in particular after 30 June 2012, when the major contribution of 500,000 Euros provided by the Government of the Netherlands ends.

I. The evolution of post-Convention services and of technical assistance

A. The evolution of post-Convention services

5. To fully consider the issues cited by the Council as meriting particular attention from the Technical Assistance Working Group, the evolution of such activities should first be taken into account.
6. For more than 30 years, post-Convention services, including promotion of the Hague Conference and its Conventions and the monitoring of the practical operation of Conventions, have been provided by the Permanent Bureau. While the Hague Conference primarily concentrated on the preparation of new Conventions from its establishment as a permanent organisation in 1955 – including consolidation of the results of negotiations (assistance with Explanatory Reports, preparation of *Actes et documents / Proceedings*)⁵ and treaty administration – the scope of the work began to shift as early as 1977, when the Permanent Bureau organised the first Special Commission on the operation of the Hague Service Convention. This highly successful first Special Commission review meeting was the start of a practice that has become an established feature of the Organisation,⁶ and a model for other international and regional organisations.⁷
7. As the monitoring and support activities of the Hague Conference continued to grow in response, in particular, to the needs identified by these Special Commissions, its Member States were considering long-term strategic goals for the Hague Conference. In May 2000, the predecessor body to the Council, the Special Commission on General Affairs and Policy, supported, and the Council of Diplomatic Representatives on 11 July 2000 adopted, a Report entitled “The Hague Conference on Private International Law on the Eve of the New Millennium: Some concrete suggestions for strategic action,” which had been drawn up by an Informal Group of Ambassadors.⁸ This Report formalised the desire of Member States for the Hague Conference to take an active role in expanding the Organisation’s membership and undertake efforts to

⁵ It may be noted that for more than two decades the Hague Asser Institute, on its own account and at its own expense, collected case law relating to the Hague Conventions (published in *Les nouvelles Conventions*, five volumes, 1976-1996). When the Asser Institute ended this activity, the Permanent Bureau did its best to compensate for the falling away of this publication, which led to, for example, the creation of INCADAT for case law on the 1980 Child Abduction Convention and the analysis of case law in the Practical Handbooks on the Service and Evidence Conventions.

⁶ This first Special Commission was convened and its Conclusions and Recommendations were implemented, absent an explicit reference in the Convention itself. Starting with the 1993 Inter-country Adoption Convention (Art. 42), Hague Conventions now provide, as a standard provision, a clause instructing the Secretary General to convene – at regular intervals – a Special Commission to review the practical operation of the Conventions.

⁷ In all, since 1977 15 such Special Commissions have been held for the following Conventions (listed in order by first Special Commission date): *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*; *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*; *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*; *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption*; *Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations*; *Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations*; *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents*; *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*.

⁸ The Report drawn up in the Fall of 1999 by the Informal Group of Ambassadors, chaired by H.E. Mr H. Reimann, the then Ambassador of Switzerland, also formed part of the Strategic Plan endorsed in 2002 by the Special Commission on General Affairs and Policy of the Conference. See note 11, *infra*.

inform and train the relevant stakeholders. The Report recommended that, among other things, the following steps be taken by the Hague Conference:

- (a) Increase the membership of the Organisation;
 - (b) Publicise the Conventions and documents of the Conference and organise seminars in co-operation with appropriate regional organisations in order to facilitate good communication, practical working relationships and the development of trust and confidence between different legal systems;
 - (c) Develop training programmes for authorities and judges applying the Conventions.⁹
8. This was the start for further reflections, and an extensive research study and evaluation prepared by PricewaterhouseCoopers, which found, *inter alia*, that tasks expected and engaged in by the Permanent Bureau exceeded its resources – the study identified a 30-35% resource deficit – and that it was desirable that Member States be more engaged in the strategic decisions concerning the future of the Organisation.¹⁰ This was followed by the drawing up of a Strategic Plan for the Conference,¹¹ the main directions of which were supported by the Nineteenth Diplomatic Session (2002).¹² As a result, the Permanent Bureau undertook concerted efforts to increase the number of Member States of the Hague Conference intensified its work on widely available tools and guides for persons and entities tasked with implementing and applying Hague Conventions,¹³ and started developing global networks and training programmes for authorities and judges applying the Conventions.
9. All these, and other post-Convention activities, were undertaken with the support of the Member States, and often also with their involvement in particular activities. However, no specific additional funding was allocated under the Organisation's Regular Budget. Instead, at the suggestion of some Member States, the Permanent Bureau created a Supplementary Budget in 1999 to receive and manage additional voluntary contributions for these post-Convention activities. Unlike the Regular Budget, the Supplementary Budget was framed in terms of specific activities / projects rather than in terms of general organisational expenses such as salaries and administration costs. As the demand for post-Convention services grew, however, it became increasingly necessary for the Supplementary Budget to cover excess organisational expenses normally borne by the Regular Budget.¹⁴

⁹ "The Hague Conference on Private International Law on the Eve of the New Millennium: Some concrete suggestions for strategic action," Proceedings of the Nineteenth Session, Tome I, Miscellaneous matters, pp 67-76, at para. 3. The Report also suggested the development of some form of regional presence of the Hague Conference. Such a regional presence is particularly meaningful and important in relation to post-Convention services.

¹⁰ See PricewaterhouseCoopers, "The Hague Conference on Private International Law: Resource Deficiencies and Strategic Positioning" (21 May, 2001), *ibid.* pp. 119-135.

¹¹ See "The Hague Conference on Private International Law – Strategic Plan", drawn up by the Permanent Bureau, Prel. Doc. No 21 B of March 2002 revised, *ibid.*, pp. 165-211 (also available at < www.hcch.net >, under "About HCCH" then "Strategic Plan").

¹² Final Act, Part B, Proceedings of the Nineteenth Session, *supra* note 9, p. 45.

¹³ A wide range of tools were created to assist States Parties (both Members and non-Members of the Conference) with the implementation and application of the Hague Conventions: Practical Handbooks on the operation of the Service and Evidence Conventions; Guides to Good Practice for the 1980 Child Abduction, 1993 Intercountry Adoption Convention, and 1996 Child Protection Convention; Country Profiles for the 1980 Child Abduction and 2007 Child Support Conventions; an ABC's of Apostilles (for the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents*, commonly known as the 1961 Apostille Convention) and a Guide on how to join and implement this Convention; as well as various electronic tools and databases, INCADAT in particular.

¹⁴ For example, in 2004, it was agreed to transfer 408,000 Euros from the Supplementary Budget to the Regular Budget in order to fund 3 Legal Officers and 1.5 administrative staff positions. Traineeships and secondments (both unpaid) were also extensively relied upon as methods to assist in facing the increasing work load. A full list of contributions to the Supplementary Budget received since 1999 (over 3 million Euros) is available on request and will be available at the meeting of the Working Group.

B. The emergence of the need for technical assistance

10. Partly as a result of the successful efforts of the Organisation to attract new Members, and partly also as a result of “autonomous” growth due to rapidly increasing globalisation and regional co-operation (which started to have an impact on the Organisation at around the same time) the number of Member States of the Organisation and of States Parties to Conventions expanded rapidly. An additional factor regarding the growth of States Parties to Conventions was the encouragement given to States by other international organisations, such as UNICEF and the UN Committee on the Rights of the Child, to join the Hague Children’s Conventions, in particular the Intercountry Adoption Convention.¹⁵
11. This *ouverture*, however, had implications which may not have been fully anticipated. In particular, because most of the new Members and new States Parties to Hague Conventions were developing States or States with an economy in transition and a lack of (legal) infrastructure, it became apparent that there was a much greater need for implementation assistance. Directly or indirectly – through international organisations such as UNICEF, the UN Committee on the Rights of the Child, the European Union, professional organisations such as the UIHJ, or through Member States of the Hague Conference – these States turned to the Permanent Bureau for help. It therefore became necessary to respond to such requests. The Council on General Affairs and Policy of the Conference consistently recognised and supported the efforts of the Permanent Bureau to meet these new needs.

C. Technical assistance activities

12. As a result, post-Convention support activities began to be referred to as “technical assistance” in those instances where the Permanent Bureau responded to a request from a specific country or countries which was / were facing challenges – either before or after joining a Hague Convention – and provided assistance to the targeted States to help with the implementation or application of the Convention. Such assistance may take the form of, for example:
 - fact-finding missions to analyse and diagnose issues;
 - developing a strategy for implementation and / or recommendations to overcome identified obstacles in the operation of Hague Conventions;
 - drafting and review of implementing legislation and / or enforcement mechanisms;
 - assistance with the creation and training of an effective Central Authority;
 - seminars, conferences and workshops for judges (including continuing education programmes), other government officials and legal practitioners and group training activities for the purpose of facilitating the consistent implementation and interpretation of Hague Conventions.

Technical assistance often consists of one or more, sometimes all, of these activities.

¹⁵ Similarly, the World Bank, through its *Investing Across Border Initiative*, advises States to consider joining the Apostille Convention as a measure to establishing a regulatory environment more conducive to foreign direct investment. In an initial 2010 report, it finds that the Apostille Convention makes it easier for foreign companies to start up business in the host State by simplifying the process of authenticating foreign public documents.

D. Criteria for responding to requests for assistance

13. The Permanent Bureau responded (and continues to respond) to these requests only if certain criteria are met. Once a formal request is received, the Permanent Bureau reviews the nature and scope, and considers whether other entities are better placed to provide assistance or whether alternative programmes are available.¹⁶ If it is clear that its specific expertise is required, the Permanent Bureau assesses the request in light of its general work programme, and then considers whether resources can be made available for the request. This is essentially dependent on the availability of funds in the Supplementary Budget and / or the possibility of seeking the necessary support (e.g., from the same requesting State, other States, International Organisations, NGOs, etc.).
14. Supplementary funding consists mainly of voluntary contributions from Members to the Supplementary Budget of the Hague Conference.¹⁷ These voluntary contributions may be earmarked for a specific purpose, project, or jurisdiction by the donor State; or donor States may indicate that their contribution may be used for whichever projects the Permanent Bureau deems most urgent. In the latter case, the priority of a given request is determined in light of the overall organisational goals, the need or urgency of providing assistance to the receiving State, logistical considerations, available human resources, and the likelihood that such assistance will be effective. In addition, the Permanent Bureau undertakes requests for assistance in principle only when the requests pertain to certain widely ratified Hague Conventions, or recently adopted Conventions with great potential.¹⁸ In such cases, in principle, all Member States and States Parties will benefit from the assistance, since, for example, it will improve the chances that Apostilles issued will be honoured, legal documents served correctly, abducted children returned, children adopted only under safe circumstances.
15. Furthermore, assistance is only provided in regard to technical matters specifically concerning the Hague Convention(s) in question, and only when the Permanent Bureau can provide added value, e.g., by providing a comparative perspective on implementation elsewhere to the receiving State (see paras 53 and 54 below). Indeed, a recurrent pattern in the provision of assistance under the Inter-country Adoption Technical Assistance Programme (ICATAP) concerning the Inter-country Adoption Convention, is that UNICEF and the State of origin of children concerned, working together on a national child protection strategy including adoption of children, request the specific assistance of the Permanent Bureau on issues of implementation of the Inter-country Adoption Convention, as part of this national strategy. The Permanent Bureau's assistance thus is narrowly focussed on these specific implementation issues, but in the context of related child protection issues which are the concern of UNICEF. This provides an ideal model also from a resource point of view (UNICEF has been very generous in providing logistical and other support to the Permanent Bureau). This pattern has been followed – in varying

¹⁶ The Permanent Bureau has always supported, encouraged, promoted (and participated in) assistance activities organised by others, whether individual States, regional or global bodies, including many NGOs and academic bodies.

¹⁷ See **Annex 3** for a list of all donors which have provided funding to the Supplementary Budget since 2007.

¹⁸ These Conventions generally include: *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents*; *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*; *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*; *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*; *Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption*; *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*; *Convention of 30 June 2005 on Choice of Court Agreements*; and *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*.

degrees of intensity of co-operation – in, for example, Guatemala, Cambodia, Vietnam, Nepal and Haiti.

E. Regional developments and the Latin American office

16. Since 2004, the Hague Conference has organised initiatives at the regional level in Latin America, the Asia Pacific region, and both Southern and Eastern Africa (as well as in States with a common Shariah law foundation) with a view towards supporting the effective and widespread implementation of Hague Conventions.
17. In the case of Latin America, following from the Conclusions and Recommendations from the 2004 Latin American Judges' Seminar on the 1980 Child Abduction Convention (held in Monterrey, Mexico, 1-4 December 2004), the Permanent Bureau identified the need to reinforce the operation of Hague Conventions and to promote the participation of Latin American States in the work of the Hague Conference. These needs gave rise in 2005 to the development of a special programme for Latin America – which includes a number of technical assistance activities – in order to:
 - Provide technical assistance to Latin American States in respect of analysis and implementation of Hague Conventions, in particular the Children and Legal Co-operation Conventions;
 - Offer technical assistance to Latin American States in respect of trainings and seminars for Judges, Government Officials, Central Authority Officers and other professionals with responsibility for implementing Hague Conventions;
 - Encourage twinning of Central Authorities as a way to strengthen the operation of the Hague Conventions;
 - Support participation of Latin American States in the work of the Hague Conference;
 - Facilitate accessibility of information concerning the operation of Hague Conventions;
 - Increase visibility of the work of the Hague Conference in Latin America; and
 - Develop and promote the work of the Hague Conference in the Spanish language.
18. Mr Ignacio Goicoechea – a former member of the Argentine Central Authority for the 1980 Child Abduction Convention – assumed the role of Hague Conference Liaison Legal Officer for Latin America (LLO) to implement the Special Programme for Latin American States. This arrangement was made possible with the generous assistance of the Argentine Ministry of Foreign Affairs, which provided office space, and bore the operational costs of the LLO office in Buenos Aires. Since then, the Permanent Bureau, through the Buenos Aires office, has provided technical assistance to States in Latin America in respect of the implementation of Hague Conventions, in consultation and co-operation with the authorities of each State, and in many cases in partnership with other interested States and / or international organisations.

F. The International Centre for Judicial Studies and Technical Assistance

19. In order to enable the Permanent Bureau to concentrate as much as possible on the scientific and diplomatic (substantive) aspects of this work – so as not to detract from its continuing responsibilities in terms of preparing new instruments and working on other post-Convention activities – it was decided in 2007 to create, within the Permanent Bureau, the International Centre for Judicial Studies and Technical Assistance (“the Centre”) to provide organisational and fundraising support for technical assistance work. This Centre, consisting initially of a Legal Programme

Officer and, shortly thereafter, a part-time Director, also assists in recruiting legal specialists from outside the Permanent Bureau, including specialists from Member States, for specific projects.

20. In particular, the Centre assists the Permanent Bureau with the planning and execution of technical assistance by securing funding, identifying partner organisations, and ensuring compliance with donor rules (a labour intensive but indispensable task). With the support of an advisory board consisting of staff members of the Permanent Bureau, the Centre has worked to create a multi-annual plan for the Permanent Bureau's technical assistance work and has transitioned the Supplementary Budget from an *ad hoc* source of funds to a mechanism developed for long-term projects with greater transparency and reporting capabilities.¹⁹ These efforts are intended to attract additional funding while simultaneously improving the efficiency and efficacy of technical assistance projects. It is envisaged that, as the number and scope of requests continues to expand, so too will the Permanent Bureau's reliance on external experts.
21. Hague Conference Special Commission review meetings and its Council on General Affairs and Policy have consistently expressed their support for the Centre and its work. Important considerations were that technical assistance is provided always at the request of the country (or countries) concerned, and, as pointed out, often also at the request of other international organisations and other Members having an interest in the target country (or countries), and that it is carried out in conjunction with, or with the involvement of, other Members and / or international organisations.

G. Financing technical assistance through development co-operation

22. Obviously, responding to requests from individual countries or groups of countries – which often lack the necessary resources not just to fund the assistance to be given by the Permanent Bureau but also to fund the infrastructure and institutions necessary for the implementation of the Convention in question – has significant resource implications. In addition to asking Members' National Organs for this additional funding,²⁰ at the suggestion of Members the Permanent Bureau approached Members' development aid agencies. As pointed out in the Report on the December 2010 meeting,²¹ while these agencies showed considerable interest, some experts noted that the highly focused work of the Conference did not easily fit within the broad categories of "developing the rule of law", "promoting good governance" or "capacity building" which were the basis of their agencies' operation. However, as noted, the Dutch development agency, for example, has taken a different approach and there are indications that development agencies of other countries are opening up to the idea of including support to the implementation of Hague Conventions in their development co-operation.²²
23. Indeed, several Member States which have joined the Hague Conference since 2000, and an even larger number of non-Member States Parties to one or more Hague Conventions, appear on the Organisation for Economic Co-operation and Development ("OECD") list of Official Development Assistance ("ODA") recipient countries, *i.e.*, countries and territories eligible to receive official development aid because they are classified as low to middle income nations.²³ Assistance provided to

¹⁹ See Supplementary Budget 2011-2012, Part II.

²⁰ Since 2007, the Supplementary Budget, Part II, has been in existence specifically to invite contributions for the work supported by the Centre.

²¹ See *supra* note 1, para. 17.

²² See, for example, the recent support by the Spanish Agency for International Development Cooperation of a regional conference in Guatemala concerning the Apostille Convention, para. 45.

²³ The OECD list of ODA countries is available at <http://www.oecd.org/dataoecd/32/40/43540882.pdf>.

ODA countries by OECD Members is included by the OECD for the purpose of assessing these Members' official contributions to the Official Development Assistance Committee ("DAC") list of developing countries.

II. Overview and examples of the technical assistance provided by the Permanent Bureau

24. Currently, the Permanent Bureau, in co-operation with Member States and other partners, is dealing, through its Centre, with 50 requests for technical assistance from 42 countries.²⁴

25. Each of these requests is classified under one or more of the following three categories of programmes:²⁵

- Intercountry Adoption Technical Assistance Programme (ICATAP);
- Child Protection Assistance Programme (CPAP);
- Legal Co-operation Assistance Programme (LCAP).

Some examples of projects from each of the three pillars are described below. In addition, examples of hybrid programmes, *e.g.*, those which consist of promotional activities as well as technical assistance, are listed in **Annex 1**. Such hybrid activities often depend on the Supplementary Budget for funding.

A. Intercountry Adoption Technical Assistance Programme (ICATAP)

1. Guatemala²⁶

26. The Permanent Bureau has been active since 2002 in providing assistance to Guatemala for the implementation of the 1993 Intercountry Adoption Convention, following its accession to the Convention in 2002. Due to a complicated constitutional situation, the accession was not confirmed in Guatemala until May 2007.

The following activities have been undertaken:

- A group of "friendly countries" met in The Hague in 2003 to develop a strategy addressing the unusual developments in Guatemala.
- The Secretary General accompanied by the Liaison Legal Officer for Latin America made an official visit to Guatemala in June 2005, facilitated by UNICEF and the Embassy of the Netherlands in Guatemala, to try and resolve the impasse concerning the status of the Convention.
- A fact-finding mission was conducted in Guatemala in March 2007 to inform the work of an international advisory group – created at the request of the Guatemalan Authorities – to give legal advice on the 2007 Adoption Bill and on the implementation of the 1993 Intercountry Adoption Convention. This advisory group consisted of experts from Colombia, Germany, Norway, Spain, the United States of America and the Permanent Bureau. A further mission to Guatemala was undertaken by the Permanent Bureau and the advisory group at the request of the Guatemalan Government (and supported by UNICEF Guatemala), to provide information sessions and training, and to work on draft legislation.

²⁴ See **Annex 2** for additional information regarding current outstanding technical assistance requests.

²⁵ A detailed description of each of these programmes can be found in the Hague Conference on Private International Law 2010 Annual Report, pp. 64-71. A beginning has been made with a Commercial and Finance Law Assistance Programme, *ibid.* pp. 70-71. See also Hague Conference on Private International Law Annual Reports for 2007, 2008 and 2009.

²⁶ Funds for technical assistance in Guatemala were primarily provided by Australia, Norway and the United States of America.

- On 31 December 2007 the new adoption law entered into force and the 1993 Intercountry Adoption Convention became effective again in Guatemala. In February 2008 the Central Authority, the *Consejo Nacional de Adopciones* (CNA), started operating under the Convention.
 - Throughout 2008, technical assistance from the Permanent Bureau continued to be provided to the staff of the CNA. A Permanent Bureau mission to Guatemala in April 2008 underscored the need for training and capacity building of the different bodies, in particular the new Central Authority, the courts and the Attorney General's Office, the *Procuraduría General de la Nación* (PGN).
 - Also in 2008, the Permanent Bureau and UNICEF worked on proposals to send different experts to Guatemala to give in-house, one-on-one training and mentoring to child protection and adoption personnel.
 - In December 2008, a group of experts from the Chilean Central Authority was sent by the Chilean Government to give training and assistance under ICATAP.
 - In 2009, the Permanent Bureau, CNA and UNICEF developed a Pilot Project to allow the resumption of intercountry adoptions. The Pilot Project was to operate for a limited period, and aimed to test the soundness of the international adoption procedures as a part of the child protection system. The Pilot Project commenced its first phase in early 2010, but was later suspended after the release of a report from a UN body which reported severe irregularities in the operation of the child protection system in Guatemala. The Permanent Bureau continues its discussions on the possibilities of implementing this project.
27. The technical assistance to Guatemala facilitated the development and approval of a new adoption law, and the entry into force of the 1993 Intercountry Adoption Convention. This has ensured that private adoptions have stopped and an end has been brought to the adoption "market" where approximately 5,000 children per year were being produced for adoption, through baby buying and selling, abduction and "baby farming". Although intercountry adoptions have not yet officially resumed, the Central Authority has worked hard to guarantee the rights of children who may be adopted. In particular, Guatemala deserves special recognition for the following: i) the successful development of national adoptions, which dramatically increased in the last three years; and ii) the orientation provided to mothers who wanted to relinquish their children who have decided to retain them after receiving advice.

2. Cambodia²⁷

28. Following a visit in November 2007 to Phnom Penh by the Secretary General, facilitated by UNICEF after Cambodia had acceded to the 1993 Intercountry Adoption Convention earlier that year, the Cambodian Government sought ICATAP assistance in 2008 to properly implement the Convention. ICATAP facilitated the creation of an International Advisory Group of concerned States to support the Cambodian Government in its transition to a Hague-compliant adoption system.
29. Since 2008 ICATAP has placed two external expert consultants in Cambodia to support the Government's efforts to implement the 1993 Intercountry Adoption Convention. In addition, the Permanent Bureau has undertaken several missions to assist officials with finalising implementing regulations and has worked with UNICEF to determine the ongoing support needed. The Cambodian Government imposed a temporary moratorium on intercountry adoptions pending completion of its legal

²⁷ Funds for technical assistance provided to Cambodia were primarily provided by Australia, Norway and the United States of America. See Handout: *International Centre for Judicial Studies and Technical Assistance* (2007).

framework and the strengthening of control mechanisms. The moratorium was extended until 1 April 2012 on the recommendation of the Permanent Bureau because preparations remained incomplete.

30. Through ICATAP, the Permanent Bureau has achieved the following in Cambodia:

- Provision of advice and assistance with the completion of the Draft Law on Adoption (passed in 2009);
- Provision of advice and assistance on the drafting of relevant regulations;
- Contribution to the establishment of the Central Authority;
- Completion of a Procedure Manual to assist Central Authority staff apply the law and regulations to adoption cases;
- Capacity building for Central Authority personnel;
- Development of a strong and positive relationship with Ministry officials and UNICEF staff;
- Consultations with Receiving States' embassies and NGOs on the status of preparations to re-commence intercountry adoptions;
- Development of a plan of action and recommendations with the International Advisory Group;
- Consolidation and updating of a plan of action with UNICEF;
- Completion in 2011 of the legal framework to implement the Convention; and
- Success in obtaining funding from some receiving States to carry out the activities listed above.

31. The Government of Cambodia intends to resume intercountry adoptions on 1 April 2012, and the Permanent Bureau, through ICATAP partners and UNICEF, will continue efforts to provide the necessary training, capacity building and fund-raising for resources.

3. Haiti²⁸

32. In response to a request from the Haitian Prime Minister, the Permanent Bureau played a fundamental role in conferences convened by the Governments of Quebec and France along with nine Central Authorities (Belgium, Flemish Community of Belgium, Canada, France, Germany, Italy, the Netherlands, Switzerland, the United States of America). At the second conference in Haiti, the Embassy of Spain, the UNICEF representative in Haiti, the Central Authority of Chile, and government and parliamentary officials of the Republic of Haiti and the Social Welfare and Research Institute (IBESR) also participated.

33. During these meetings, participants affirmed their commitment to the principles of the 1993 Intercountry Adoption Convention. Guidelines for a joint action plan in preparation for Haiti's accession to the Convention were drafted and the Haitian Government expressed its commitment to develop legitimate and internationally-accepted adoption procedures.

34. The action plan indicates that support for the Government of Haiti must continue for the long term in order to strengthen the child protection system and implement procedures consistent with the 1993 Intercountry Adoption Convention that will eventually assure the resumption of international adoptions in Haiti.

35. As a result of these meetings, the Permanent Bureau was asked to collaborate with partners to revise Haiti's draft intercountry adoption law of 2010 and provide comments to Haitian authorities, organise an informational seminar for parliamentarians on the 1993 Intercountry Adoption Convention and to explain

²⁸ Funds for technical assistance in Haiti were provided in part by the Netherlands. See Netherlands Ministry of Foreign Affairs Report FY 2010-2011.

proposed amendments to the draft law. A further result was that Haiti signed the 1993 Convention in 2011.

B. Child Protection Assistance Programme (CPAP)

1. Ukraine 2008-2009

36. In 2008 and 2009, technical assistance was provided to the Ukraine. This initiative was jointly organised by the Hague Conference and the Ukrainian-European Policy and Legal Advice Centre (UEPLAC) upon the request of the Ukrainian Government.
37. The first phase of this programme was a fact-finding mission which took place in May 2008. The purpose of this mission was to gather facts necessary to develop a subsequent training seminar tailored to the Government's actual needs. The Permanent Bureau invited an external expert with both governmental and private sector experience to carry out the mission.
38. In July 2008, a seminar was held for more than 40 participants, consisting of government officials working at the Ukrainian Central Authority, legal practitioners, and judges with jurisdiction to hear Hague Child Abduction cases. The seminar allowed for in-depth discussions, case studies and interaction between the judicial and government sectors.
39. As a follow up to the above technical assistance work, five senior judges from the Ukraine, along with a member of their Central Authority, attended a training seminar in The Hague in late June / early July 2009. This seminar was jointly organised by the Centre and UEPLAC and concerned the practical implementation of the 1980 Child Abduction Convention.

2. Child Abduction²⁹ project in Mexico

40. In August 2009, the Hague Conference started a technical assistance project³⁰ to assist Mexican authorities to improve the operation of the 1980 Child Abduction Convention.
41. The project was implemented in co-ordination and direct co-operation with the Mexican Ministry of Foreign Affairs (Central Authority), the institute of judicial studies of the Superior Court of Justice of Mexico DF (*Instituto de Estudios Judiciales del Tribunal Superior de Justicia del Distrito Federal*), and the Presidents of Mexico's State Supreme Courts (known as CONATRIIB).
42. The key activities of this project were as follows: i) diagnostic visit / report (August 2008); ii) a judicial seminar (September 2009); iii) the First Meeting of the Mexican Network of Judicial Cooperation for the Protection of Children (the "Mexican Judicial Network") in February 2010; and iv) a Second Meeting of the Mexican Judicial Network and Training on International Child Abduction for officially designated judges (February 2011).
43. The main achievements of the project include: i) the Central Authority revised internal procedures and improved its co-operation with the judiciary and foreign Central Authorities; ii) creation of the Mexican Judicial Network and designation of Judges through their respective Supreme Courts; iii) concentration of jurisdiction for

²⁹ Funding for technical assistance provided to the Mexico National Network of Judges was provided primarily by Canada, Germany and the Netherlands. See, e.g., Netherlands Ministry of Foreign Affairs Report FY 2009-2010.

³⁰ Funding for this project was provided primarily by Canada, Germany and the Netherlands. See, e.g., Netherlands Ministry of Foreign Affairs Report FY 2009-2010.

child abduction cases in the Mexico DF district; iv) development of a draft law of procedure to be applied to Child Abduction Convention cases; and v) training of judges officially designated to the Mexican Judicial Network.

3. Morocco³¹

44. From 15 to 17 December 2010, an international seminar was held for approximately 50 Moroccan family judges on the practical operation of the 1980 Child Abduction Convention. Members of the Permanent Bureau, as well as a French honouree family judge, in collaboration with the Supreme Court of Morocco and TAIEX introduced to the participants the main judicial issues in relation to the application of the Convention through hypothetical cases. In addition to a great interest in the proper operation of the Convention, the participants clearly expressed support for the designation of Moroccan judges to the International Hague Network of Judges and a follow-up of the training for their respective local courts.

C. Legal Co-operation Assistance Programme (LCAP)

1. Regional event in Guatemala

45. In connection with the successful e-Apostille Pilot Program (e-APP), technical assistance was provided to 13 Latin American States, both parties and non-parties States to the Apostille Convention, at an event held in Guatemala and organised in co-operation with the Spanish Agency for International Development Cooperation (AECID) and the Spanish Ministry of Justice.
46. The purpose of the seminar was to put at the disposal of participants from Latin America the experience gathered by Spain in the implementation of its new e-APP system and to offer the possibility to adopt and adapt the Spanish model. Adopting the Spanish model could in turn result in an increase of security in the international circulation of public documents, increased confidence among Spain and Latin American States and the modernisation and improvement of the service provided to the public in those States. Participants were also presented with the latest innovations in relation to the e-APP, as well as the experiences of some of the countries in the region.

2. Dominican Republic³²

47. In June 2009, technical assistance was provided to the Dominican Republic with the implementation of the 1961 Apostille Convention. This mission, which took place prior to the Convention's entry into force for the Dominican Republic, greatly contributed to the proper implementation of the Apostille Convention as well as to the development and operation of an effective electronic register of Apostilles.³³

3. East African Community (EAC)

48. A workshop took place in Nairobi in 2011 to present the Apostille Convention to the five Member States of the East African Community (Burundi, Kenya, Rwanda, Tanzania and Uganda). This event was organised and funded by TradeMark East

³¹ See, e.g., Netherlands Ministry of Foreign Affairs Report FY 2010-2011.

³² See Report on the Mission to the Dominican Republic (2009) (provided as a handout to Members of the Working Group).

³³ During the same mission, other meetings were held in Nicaragua and El Salvador to promote and provide assistance with the implementation of the Apostille, Service, Evidence and Access to Justice Conventions. All these events also attracted wide media coverage in the region which increased the visibility of the Hague Conference and its work.

Africa, a multi donor, not-for-profit organisation based in Nairobi which had contacted the Permanent Bureau.³⁴

49. The objective of the workshop was to present the Apostille Convention to the EAC partner States, discuss possible challenges to its implementation, and define a strategy for possible implementation of the Convention in the region. Efforts in this respect are ongoing. The participants also benefitted from a presentation by a representative of the Competent Authority of South Africa, who shared that country's experience with the Convention.

III. Importance of technical assistance

50. In the widening circle of States Parties to the Hague Conventions, the successful functioning of many of the Hague Conventions, especially those which involve international co-operation at the administrative or judicial level, depends increasingly on the ability of those who are charged with implementation and those who will actually apply the Conventions – government officials, including Central / Competent Authority personnel, judges, court officers and members of the legal profession – to have access to adequate information and receive appropriate training.
51. To this end, it is first important to recall that Hague Conventions (particularly those involving judicial and administrative co-operation across borders) are practical working instruments which, for their effective operation, require careful implementation at the national level. In the absence of an international body to provide authoritative interpretations of, or to enforce obligations under, Hague Conventions, continuing efforts are needed to ensure their consistent interpretation and efficient functioning within and between the States Parties.
52. Secondly, as the number of Hague Conference Members and non-Members Parties to Conventions expands, an increasing number of the newly interested States join Conventions without the institutional knowledge gathered through involvement in the negotiation process, and, increasingly, more generally with an incomplete (legal) infrastructure. Capacity building is needed to help such States absorb, implement and correctly apply these instruments.
53. Some of the considerations which have led the Permanent Bureau to assume a supporting role to assist such States (with the support, and often also the involvement, of Members), were the following:
- First, the Permanent Bureau is often in the best position to deliver technical assistance because of the subject matter expertise it has acquired by facilitating the development of Conventions and providing post-Convention services for such instruments.
 - Secondly, the Permanent Bureau, through its Centre, manages a significant number of requests for technical assistance throughout the world and is therefore able to ensure that the content and quality of technical assistance remains consistent, both as between receiving States and over time.
 - Finally even non-Members are able to join Hague Conventions regardless of whether adequate implementing legislation has been developed and offering technical assistance to requesting States is the best way for all States Parties to benefit fully from a Convention. In other words, the failure of one State to receive the help it needs to comply with its obligations under reciprocal Conventions impacts other Contracting States by undermining the objectives and purpose of the instrument. As

³⁴ While this event obviously also had a promotional component - which would justify its classification as a "hybrid project" (see **Annex 1**) – the technical assistance element of this event was predominant.

such, the Hague Conference, as well as all States Parties, have a strong vested interest in assisting States with fulfilling their Convention obligations.

It should be noted that States receiving such support could be either Member or Non-Member States. Assistance is usually provided following accession or ratification of one or more Hague Conventions, but in exceptional cases may also be provided before accession or ratification occurs.

54. Over the years, the Permanent Bureau has concentrated its activities, described in paragraph 12 above, on initiatives in which States are unable to independently meet their obligations and when the unique standing and expertise of the Permanent Bureau offers obvious added value. The particular strengths of the Permanent Bureau lie in:

- First-hand knowledge of the processes and debates behind each instrument, *e.g.*, discussions at drafting sessions and Special Commissions;
- The unique role the Permanent Bureau is able to play in promoting inter-State co-operation, particularly among judges;
- Awareness of the successes, concerns, problems and questions raised by States in various regions of the world;
- The highly specialised expertise of Permanent Bureau lawyers and its global networks of experts;
- Its capacity and responsibility to promote consistent interpretation and practice under the Conventions;
- The Organisation's legitimacy and reputation;
- Impartiality with regard to particular inter-state problems arising from the application of particular Conventions;
- Its role in promulgating the Conclusions and Recommendations of Special Commissions convened to review the operation of the various Conventions;
- Strong relationships / partnerships with local organisations (*e.g.*, local branches of UNICEF, the Asser Institute, notary associations, courts, child protection organisations and regional organisations) which foster trust and understanding.

55. These strengths, which are essential in meeting the needs of various legal traditions with complex and delicate differences in a consistent manner, are best utilised in conjunction with partnerships with other States or organisations. Occasionally, however, State-specific expertise and support can also be provided by academic institutions, non-governmental organisations, other States Parties and experts from the private sector. Such entities may be better placed to provide technical assistance when the institutional knowledge, global overview, and highly specialised expertise unique to the Permanent Bureau are not necessary. It may also be more appropriate in some circumstances to rely on the assistance of other States Parties in a region which have successfully implemented the Convention in question to advise a neighbouring State. This assumes, however, that these other actors are both able and willing to provide this assistance. It is often necessary, at the very least, for the Permanent Bureau to identify and advise external experts or organise the programmes in which external experts are able to provide technical assistance.

IV. Matters for further consideration

A. The role of the Hague Conference in providing technical assistance

56. The role of the Hague Conference in providing technical assistance to targeted countries unfolded as a natural development of its post-Convention services. These

post-Convention services first began being offered in the late 1970s (see paras 1-23 above; examples being given in paras 24-49).

57. The Hague Conference is often the best placed organisation to provide focused technical assistance, particularly when such assistance is provided in partnership with other international organisations, NGOs, or governments (paras 50-55). Assistance will only be provided when certain criteria are met (paras 13-15). The creation of the Centre has contributed to streamlining technical assistance planning and organisation, the funding of the assistance programmes, and meeting reporting requirements (paras 16-21).
58. Hague Conference experts are often invited by other organisations to play a role or assist with providing technical assistance. As post-Hague Convention support must involve many actors, the Hague Conference often participates in technical assistance initiated by others.³⁵
59. The Organisation has been able to successfully provide technical assistance primarily as a result of voluntary contributions under the Supplementary Budget (para. 9 above). The Supplementary Budget has not only funded assistance programmes but also the salaries of additional staff.³⁶ In this regard, efforts have been made to make the Organisation less dependent on supplementary funding. This should make it easier to continue finding funds specifically for projects and programmes.
60. The Permanent Bureau is at the disposal of the Working Group to provide it with additional information, in order to facilitate its discussions and recommendations regarding its current and future role in providing technical assistance and the relevant resource requirements.

B. Priorities

61. By carefully scrutinising requests for technical assistance, grouping such requests where possible, and concentrating the administrative and logistical support for technical assistance in the Centre, among others, the Permanent Bureau has done its utmost (1) to prioritise activities within its technical assistance programme, and (2) to avoid any adverse effects on its (other) core tasks, in particular the preparation of new instruments and general monitoring and support work for Conventions. Nevertheless, it is clear that combining all these different tasks funded through a limited Regular Budget and an unpredictable Supplementary Budget is a major challenge to the Organisation.
62. One particular difficulty here is that the work of the Hague Conference covers a very wide field, and may involve a wide variety of stakeholders within the Members' governments and administrations. It may be a challenge for Members to co-ordinate their position in respect of the technical assistance work of the Conference, and determine the extent to which it should be considered "core" or "essential".
63. The Working Group may wish to consider whether and how to improve the (procedures for the) setting of priorities, both within the programming of technical assistance, and between technical assistance and the other duties of the Permanent Bureau.

³⁵ For example, such assistance has been provided at the request of Euromed, TAIEX, IBA, IRZ, UNICEF and national training bodies.

³⁶ In particular, thanks to the Dutch contribution of 500,000 Euros for the period 2008-2012, it has been possible to retain the services of Adoption Technical Assistance Programme Co-ordinator and several external experts.

C. Human resources requirements

64. As noted above (paras 16-21), the Centre was set up in 2007 specifically to provide logistical and administrative support in order to enable the lawyers of the Permanent Bureau to concentrate on substantive scientific and diplomatic work. The Centre currently employs the equivalent of 1.5 FTE funded through the Regular Budget. In addition, Permanent Bureau legal staff – including the Liaison Legal Officer and Legal Assistant in Latin America – work as much as possible in co-operation with development agencies, regional and national bodies, other international governmental and non-governmental organisations, with academic bodies, and with professional associations, in attempting to address these needs. Increasingly, for specific technical assistance activities use is made of external experts (*cf.* also para. 55 above). However, for certain diplomatic activities and expertise the involvement of Permanent Bureau staff is indispensable.
65. Currently the salary of the Adoption Technical Assistance Programme Co-ordinator is funded through the Supplementary Budget (guaranteed until 31 December 2012). The Working Group may wish to consider the current situation with regard to human resources and make recommendations with regard to the future.

D. Funding in relation to technical assistance

66. At the moment, the ability of the Permanent Bureau to offer technical assistance for each of its three main programmes (para. 25 above) and for each activity within each programme depends on the availability of *ad hoc* resources through voluntary contributions.
67. The problem is that – with the exception of some longer term commitments such as that provided by the Dutch contribution for 2008-2012 – these contributions are usually unpredictable, which makes planning, and recruiting staff paid from such contributions, difficult.³⁷ Moreover, the task of fundraising is time-consuming and places strains on an already extended Permanent Bureau staff.
68. In short, there is an urgent need to adapt a more coherent framework to make possible advanced planning and more regular financing. In particular, the Working Group may wish to discuss the following:
- Exploring additional sources of funding – both long and short term – including development aid and support from private donors, the need for the creation of a trust fund for funding purposes as mentioned during the 2010 December meeting³⁸ and whether the Centre could / should be restructured with these goals in mind;
 - Encouraging States to provide in-kind assistance via officials on secondment or other persons on temporary placement to manage the education and training activities;
 - Exploring these possibilities, in particular, in the regional context; and
 - Providing all Member States with an even clearer picture of the services offered by the Permanent Bureau and the criteria under which these services are provided.

³⁷ See "Report of the Meeting of the Open-ended Working Group of Members – 2-3 December 2010", Prel. Doc. No 5 of March 2011, at para. 31.

³⁸ See *supra* note 1, para. 17.

E. The role of the Members, experts and regional offices in providing technical assistance in their respective regions

69. At the December 2010 meeting some experts expressed a wish that Members play a greater role in providing technical assistance with regard to States in their region. This is entirely in line with ideas that were already expressed in the 2002 Strategic Plan³⁹ and with the development of regional programmes, both for general support activities and targeted technical assistance. The support given by Argentina to the Conference's Liaison Legal Officer for Latin America, and the support given by various other members to regional conferences and meetings offer additional examples. The successful Latin American programme illustrates the particular importance of a permanent regional presence of Permanent Bureau staff as a cost effective catalyst for regional implementation of Hague Conventions and their promotion. In this regard the offer made by the Special Administrative Region of Hong Kong, with the support of the Chinese Government to host a regional office in Hong Kong for the Asia Pacific region deserves particular attention.
70. The Working Group may wish to consider the regional dimension of technical assistance, and make recommendations to this effect.

V. Conclusion

71. Since the turn of the century, the Hague Conference has experienced booming growth. There has been a surge of new Members, including the European Union (whose accession was made possible by a revision of the Statute), increasing participation in the work of the Conference, including by States from Latin America, and exponential growth of States Parties to Conventions. In the years ahead, the effects of globalisation and regional co-operation will, most likely, continue to impact on the Conference and its work.
72. The pace and extent of growth of States Parties to Hague Conventions – in particular those that provide for cross-border judicial and administrative co-operation – is an enormous success for the Conference. But this success does create an unforeseen need to assist many new States Parties to Conventions which lack the experience and (legal) infrastructure necessary for the implementation of these instruments. Assisting these States is in the common interest of all States Parties to these Conventions and to Members generally.
73. Individual Members have been generous in providing such support and funding to the Permanent Bureau to enable it to provide such assistance. The challenge will be to create a clear and consistent foundation for continuing to ensure the operation of Hague Conventions at acceptable levels of performance, and defining the role of the Conference in these efforts.

³⁹ See *supra* note 11.