AFFAIRES GÉNÉRALES ET POLITIQUE
GENERAL AFFAIRS AND POLICY

Doc. prél. No 1
Prel. Doc. No 1

septembre / September 2011

HccH
HAGUE CONFERENCE ON
PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE
DE DROIT INTERNATIONAL PRIVÉ

RAPPORT DU CONSEIL SUR LES AFFAIRES GÉNÉRALES ET LA POLITIQUE DE LA CONFÉRENCE DU 5 AU 7 AVRIL 2011

établi par le Bureau Permanent

* * *

REPORT OF THE COUNCIL ON GENERAL AFFAIRS AND POLICY OF THE CONFERENCE OF 5 TO 7 APRIL 2011

drawn up by the Permanent Bureau

Document préliminaire No 1 de septembre 2011 à l'intention du Conseil d'avril 2012 sur les affaires générales et la politique de la Conférence

Preliminary Document No 1 of September 2011 for the attention of the Council of April 2012 on General Affairs and Policy of the Conference

Permanent Bureau | *Bureau Permanent*
6, Scheveningseweg 2517 KT The Hague | *La Haye* The Netherlands | *Pays-Bas*
telephone | *téléphone* +31 (70) 363 3303 fax | *télécopieur* +31 (70) 360 4867
e-mail | *courriel* secretariat@hcch.net website | *site internet* http://www.hcch.net

RAPPORT DU CONSEIL SUR LES AFFAIRES GÉNÉRALES ET LA POLITIQUE DE LA CONFÉRENCE DU 5 AU 7 AVRIL 2011

établi par le Bureau Permanent

* * *

REPORT OF THE COUNCIL ON GENERAL AFFAIRS AND POLICY OF THE CONFERENCE OF 5 TO 7 APRIL 2011

drawn up by the Permanent Bureau

TABLE DES MATIÈRES / TABLE OF CONTENTS

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS..... 4

CONCLUSIONS ET RECOMMANDATIONS ADOPTÉES PAR LE CONSEIL / CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE COUNCIL 15

ORDRE DU JOUR / AGENDA 20

RAPPORTS DE SÉANCE / REPORTS OF MEETING ..... **Error! Bookmark not defined.**

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS

MEMBRES / MEMBERS

AFRIQUE DU SUD / SOUTH AFRICA

Mr R. DE JAGER, State Law Adviser (International Law), Office of the Chief State Law Adviser (International Law), Department of International Relations and Cooperation, Pretoria

Ms Yolande M. DWARIKA, Legal Counsellor, Embassy of the Republic of South Africa, The Hague

ALBANIE / ALBANIA

H.E. Mr Gazmend BARBULLUSHI, Ambassador of Albania, Embassy of the Republic of Albania, The Hague

Ms Xhuljeta KEKO, Minister Counsellor, Embassy of the Republic of Albania, The Hague

ALLEMAGNE / GERMANY

Mr Rolf WAGNER, *Ministerialrat*, Head of Division for Private International Law, *Bundesministerium der Justiz*, Berlin

Mrs Donate VON ARZ, Second Secretary, Embassy of the Federal Republic of Germany, The Hague

Mr Felix NEUMANN, Counsellor, Legal Affairs, Embassy of the Federal Republic of Germany, The Hague

ARGENTINE / ARGENTINA

H.E. Mr Santos GOÑI MARENCO, Ambassador of Argentina, Embassy of Argentina, The Hague

Mr Luis Pablo M. BELTRAMINO, Minister-Counsellor, Embassy of Argentina, The Hague

Mr Fernando Andrés MARANI, First Secretary, Embassy of Argentina, The Hague

AUSTRALIE / AUSTRALIA

Ms Louise GLANVILLE, First Assistant Secretary, Access to Justice Division, Commonwealth Attorney-General's Department, Barton

Mr Todd QUINN, First Secretary, Embassy of Australia, The Hague

AUTRICHE / AUSTRIA

Ms Christine MIKLAU, Mag., Directorate for Civil Law and Legislation, Federal Ministry of Justice Abteilung I 9 and 10, Vienna

BÉLARUS / BELARUS

H.E. Mrs Elena GRITSENKO, Ambassador of Belarus, Embassy of the Republic of Belarus, The Hague

Mr Andrei METELITSA, Head of Division, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Minsk

Mr Andrei LUCHENOK, Counsellor, Embassy of the Republic of Belarus, The Hague

BELGIQUE / BELGIUM

S.E. M. Yves HAESENDONCK, Ambassadeur, Représentant permanent auprès des institutions internationales à La Haye, Ambassade du Royaume de Belgique, La Haye

Mme Bénédicte MAUDOUX, Conseiller, Service Public Fédéral de la Justice, Direction générale Législation, Libertés de droits fondamentaux, Service de coordination internationale, Bruxelles

Mme Salomé PETTER, Attaché, Service Public fédéral des Affaires étrangères, du commerce extérieur et de la coopération au développement, Direction générale des Affaires consulaires, Service de la Coopération judiciaire internationale, Bruxelles

BRÉSIL / BRAZIL

Mr Leandro ANTUNES MARIOSI, Secretary, Embassy of Brazil, The Hague

Mr Arnaldo José ALVES SILVEIRA, Advisor for International Fora and Treaties, Department of Assets Recovery and International Legal Cooperation, Ministry of Justice, Brasilia

Mr Ewerton Marcus DE OLIVEIRA GÓIS, State Attorney, Office of the Attorney General, Brasilia

BULGARIE / BULGARIA

Mr Krasimir VOYNOV, State Expert, Ministry of Justice, Sofia

CANADA

Mrs Kathryn SABO, General Counsel and Director, Department of Justice, International Private Law Section, Public Law Sector, Ottawa

Mr Cyril BORLÉ, Legal Adviser, Embassy of Canada, The Hague

CHILI / CHILE

Mr Germán IBARRA, Minister Counsellor, Embassy of Chile, The Hague

Mr Javier GOROSTEGUI, Third Secretary, Embassy of Chile, The Hague

Mr Rodrigo WAGHORN, Third Secretary, Embassy of Chile, The Hague

CHINE, RÉPUBLIQUE POPULAIRE DE / CHINA, PEOPLE'S REPUBLIC OF

Mr QU Wensheng, Counsellor (Legal and Political Affairs), Embassy of the People's Republic of China, The Hague

Mr WU Haiwen, First Secretary, Department of Treaty and Law, Ministry of Foreign Affairs, Beijing

Mr QI Dahai, First Secretary, Embassy of the People's Republic of China, The Hague

Mr LI Hao, Legal Officer, Department of Treaty and Law, Ministry of Foreign Affairs, Beijing

Mr James DING, Senior Government Counsel, Department of Justice, International Law Division, Hong Kong SAR of China

CHYPRE / CYPRUS

H.E. Mr James C. DROUSHIOTIS, Ambassador of the Republic of Cyprus, Embassy of Cyprus, The Hague

Mr Nikos PANAYIOTOU, Second Secretary, Embassy of Cyprus, The Hague
Mrs Vasiliki SKLAVOU, Advisor, Embassy of Cyprus, The Hague

CORÉE, RÉPUBLIQUE DE / KOREA, REPUBLIC OF

Mr Zha Hyoung RHEE, Counselor, Embassy of the Republic of Korea, The Hague

Mr Han Seung KANG, Presiding Judge, Seoul High Court, Seoul

Mr Jae-Woo KIM, First Secretary, Embassy of the Republic of Korea, The Hague

COSTA RICA

H.E. Mr Jorge URBINA ORTEGA, Ambassador of Costa Rica, Embassy of Costa Rica, The Hague

Ms Ana Marcela CALDERON, Minister Counsellor, Embassy of Costa Rica, The Hague

Ms Shara DUNCAN VILLALOBOS, Counsellor, Embassy of Costa Rica, The Hague

CROATIE / CROATIA

H.E. Mrs Vesela MRĐEN KORAĆ, Ambassador of Croatia, Embassy of Croatia, The Hague

Mr Ivica MILIČIĆ, Counsellor, Embassy of Croatia, The Hague

DANEMARK / DENMARK

Mr Christian NYGARD NISSEN, Advisor, Embassy of Denmark, The Hague

Ms Mette JOHANSEN, Legal Adviser, Ministry of Justice, Copenhagen

Ms Linda Abeela KRÆMER, Intern, Embassy of Denmark, The Hague

ÉGYPTE / EGYPT

Mr Khaled RADY, Minister Plenipotentiary, Embassy of the Arab Republic of Egypt, The Hague

ÉQUATEUR / ECUADOR

Ms Ruth VASCONEZ, Third Secretary, Embassy of Ecuador, The Hague

ESPAGNE / SPAIN

Mme Alegría BORRÁS, *catedrática de derecho internacional privado, Universidad de Barcelona*, Barcelone

Ms Silvia VILLA ALBERTINI, *Subdirectora General Adjunta de Cooperación Jurídica Internacional, Ministerio de Justicia Subdir. Gen. Coop. Jurídica Internacional*, Madrid

ÉTATS-UNIS D'AMÉRIQUE / UNITED STATES OF AMERICA

Mr Keith LOKEN, Assistant Legal Adviser for PIL, US Department of State, Office of the Legal Adviser, Washington, DC

Ms Karen K. JOHNSON, Deputy Legal Counselor, Embassy of the United States of America, The Hague

FINLANDE / FINLAND

Mr Antti T. LEINONEN, Director of Legislation, Law Drafting Department, Ministry of Justice, Helsinki **(Président du Conseil / Chair of the Council)**

Ms Laura MÄÄTTÄNEN, Researcher, Law Drafting Department, Ministry of Justice, Helsinki

FRANCE

Mme Nicole COCHET, Magistrat, Chargée de mission pour le droit européen et international, Direction des Affaires civiles et du Sceau, Ministère de la Justice, Direction des Affaires Civiles et du Sceau, Paris

GRÈCE / GREECE

Mr Ioannis KOROVILAS, Attaché, Embassy of Greece, The Hague

HONGRIE / HUNGARY
(Présidence du Conseil de l'Union européenne / Presidency of the Council of the European Union)

H.E. Mr Gyula SÜMEGHY, Ambassador of Hungary, Embassy of Hungary, The Hague

Mr Pál SZIRÁNYI, Legal Officer, Ministry of Public Administration and Justice, Budapest

Mr György GÁTOS, Chair of the Working Party on General Questions (Civil Law Committee), Ministry of Public Administration and Justice, Department of Judicial Cooperation and Private International Law, Budapest

Ms Eszter RUBI, Legal Adviser, Counselor, Ministry of Public Administration and Justice, Department of Judicial Cooperation and Private International Law, Budapest

INDE / INDIA

Mr Narinder SINGH, Joint Secretary, Ministry of External Affairs Legal & Treaties Division, New Delhi

Mr Satender KUMAR, First Secretary, Embassy of India, The Hague

IRLANDE / IRELAND

Ms Regina TERRY, Principal Officer, Department of Justice and Equality, Dublin

ISRAËL / ISRAEL

Mr Peretz SEGAL, Head of Legal Counsel Department, Ministry of Justice, Jerusalem

JAPON / JAPAN

Mr Yoshiki OGAWA, First Secretary / Legal Advisor, Embassy of Japan, The Hague

JORDANIE / JORDAN

Mrs Raghed AL SAQQA, First Secretary, Embassy of the Hashemite Kingdom of Jordan, The Hague

LETTONIE / LATVIA

Ms Laila MEDINA, Under-Secretary of State, Ministry of Justice, Riga

LITUANIE / LITHUANIA

Ms Reda GABRILAVIČIŪTĖ, Head *a. i.* of Legal System Development Division, Legal System Department, Ministry of Justice, Vilnius

LUXEMBOURG

M. Sergej HENTZIG, Chef de mission adjoint et Consul; Premier Secrétaire, Ambassade du Grand-Duché de Luxembourg, La Haye

MAROC / MOROCCO

M. Mohamed ZAHLOUL, Magistrat détaché auprès de l'Ambassade du Royaume du Maroc, La Haye

M. El Mostafa TRIFAIA, Conseiller, Ambassade du Royaume du Maroc, La Haye

MAURICE / MAURITIUS

Mrs Feroza MAUDARBOCUS MOOLNA, Chief State Attorney, Attorney General's Office, Port-Louis

MEXIQUE / MEXICO

H.E. Mr Jorge LOMÓNACO TONDA, Ambassador of Mexico, Embassy of the United Mexican States, The Hague

Mr Guillaume MICHEL BLIN, Legal Counsel, Embassy of the United Mexican States, The Hague

Mr Johannes Jácome CID, Director for Family Law, *Secretaría de Relaciones Exteriores Dirección General de Protección y A.C.*, *Centro*, Mexico, DF

Mr Alejandro LEÓN VARGAS, Deputy Director for International Law II, *Secretaría de Relaciones Exteriores Consultoría Jurídica*, Mexico, DF

MONACO

M. Pierre-Henri SETTIMO, Conseiller, Ambassade de la Principauté de Monaco, Bruxelles

M. Christophe CROVETTO, Conseiller, Ambassade de la Principauté de Monaco, Bruxelles

NORVÈGE / NORWAY

Mr Hâkon Schei MENTZONI, Adviser, The Royal Ministry of Justice and the Police, Oslo

NOUVELLE-ZÉLANDE / NEW ZEALAND

Ms Bronwyn SHANKS, Deputy Head of Mission, Embassy of New Zealand, The Hague

PANAMA

H.E. Mr Carlos Constantino AROSEMENA RAMOS, Ambassador of Panama, Embassy of Panama, Brussels

Mr Yan PÉREZ, Embassy of Panama, Brussels

PAYS-BAS / NETHERLANDS

Mr Paul VLAS, President of the Netherlands Standing Government Committee on Private International Law; Professor at the *Vrije Universiteit Amsterdam*, Faculty of Law; Advocate General of the Supreme Court of the Netherlands

Mr Harry DUINTJER TEBBENS, Member of the Netherlands Standing Government Committee on Private International Law, Calorguen

Ms Paulien M.M. VAN DER GRINTEN, Co-ordinating Legal Advisor, Legislative Department, Private Law Section, H528, Minstry of Justice, The Hague

Mr Foort VAN OOSTEN, Senior Jurist, Department of Civil Law, Ministry of Foreign Affairs, The Hague

PÉROU / PERU

H.E. Mr Allan WAGNER, Ambassador of Peru, Embassy of Peru, The Hague

Mr Alfredo FORTES, Counsellor, Embassy of Peru, The Hague

PHILIPPINES

Mr Frank R. CIMAFRANCA, Minister and Consul General, Chargé d'affaires, *a.i.*, Embassy of the Philippines, The Hague

Ms Azela G. ARUMPAC, Acting Director, Treaties Division, Office of Legal Affairs, Department of Foreign Affairs, Pasay City

Ms Maria Anna Lilia L. DE VERA, Second Secretary and Consul, Embassy of the Philippines, The Hague

POLOGNE / POLAND

H.E. Mr Janusz STAŃCZYK, Ambassador of Poland, Embassy of Poland, The Hague

Mr Michal WĘCKOWICZ, Counselor, Embassy of Poland, The Hague

Ms Anna WARMIŃSKA, First Secretary, Embassy of Poland, The Hague

Mr Maciej KARASIŃSKI, First Secretary, Embassy of Poland, The Hague

PORTUGAL

Ms Assunção CARDOSO REIS, Legal Adviser, Civil Law Unit, International Affairs Department, Ministry of Justice, Lisboa

ROUMANIE / ROMANIA

Ms Ileana POPESCU, Legal Adviser, Embassy of Romania, The Hague

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD / UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Ms Baljit WIRK, Head of European Institutions, Enlargement and, External Relations, International Directorate, Ministry of Justice, London

RUSSIE, FÉDÉRATION DE / RUSSIAN FEDERATION

Mr Igor PANEVKIN, Deputy Director, Legal Department, Ministry of Foreign Affairs, Moscow

Ms Elizaveto IVANOVA, Referent, Ministry of Justice, Department of International Law and Cooperation, Moscow

Mr Maxim MUSIKHIN, Counsellor, Embassy of the Russian Federation, The Hague

Ms Anna SHCHEPETKOVA, Third Secretary, Legal Department, Ministry of Foreign Affairs, Moscow

SERBIE / SERBIA

Mr Vojkan SIMIC, Assistant Minister, Deputy Chair of the Council on Private International Law, Ministry of Justice, Belgrade

Ms Vojka JANJIC, Legal Advisor, Secretary of the Council on Private International Law, Ministry of Justice, Belgrade

Mr Mirko ZIVKOVIC, Professor of Private International Law, Faculty of Law, University of Nis; President of the Serbian Governement Council on Private International Law; President of the Ministry of Justice Government Working Group for the drafting the new Private International Law Code

SLOVAQUIE / SLOVAKIA

Mr Miloš HAŤAPKA, Director, Private International Law Division, Ministry of Justice, Bratislava

SLOVÉNIE / SLOVENIA

H.E. Mr Leon MARC, Ambassador of Slovenia, Embassy of Slovenia, The Hague

Ms Romana BERNIK, Head of the Civil Law Unit, International Cooperation Division, Ministry of Justice, Ljubljana

Mr Jurij MESEC, Senior Advisor, International Co-operation Division, Ministry of Justice, Ljubljana

Ms Nataša ŠEBENIK, Minister Counsellor, Embassy of Slovenia, The Hague

SUÈDE / SWEDEN

Ms Sara LINDEGREN, First Secretary, Embassy of Sweden, The Hague

Ms Danijela PAVIC, Legal Adviser, Ministry of Justice, Division for Family Law and the Law of Contracts, Torts and Personal Property (L2), Stockholm

SUISSE / SWITZERLAND

Mme Monique JAMETTI GREINER, Vice-directrice Domaine de direction Droit privé, Office fédéral de la Justice (OFJ), Berne

M. Michael SCHÖLL, Head Private International Law Unit, Office fédéral de la Justice (OFJ), Berne

M. Andreas BUCHER, Professeur honoraire, Université de Genève, Faculté de droit, Cologny

SURINAME

Mrs Susan M. DERBY, Counsellor, Embassy of the Republic of Suriname, The Hague

RÉPUBLIQUE TCHÈQUE / CZECH REPUBLIC

H.E. Mr Jaroslav HORÁK, Ambassador, Embassy of the Czech Republic, The Hague
Ms Zuzana FIŠEROVÁ, Director of International Department for Civil Matters, Ministry of Justice, Prague

Ms Pavla BELLONOVÁ, Ministry of Justice, Prague

Mr Pavel CABAN, Third Secretary, Embassy of the Czech Republic, The Hague

TURQUIE / TURKEY

Ms Melike BOSUTER, Legal Counsellor, Embassy of Turkey, The Hague

UKRAINE

Ms Larysa GERASKO, Deputy Director for the Legal and Treaty Department, Ministry of Foreign Affairs, Kiev

Mr Andrii PASICHNYK, Third Secretary (Legal Affairs), Embassy of Ukraine, The Hague

Ms Lyudmyla RUDA, Deputy Head, Department on Private International Law and International Legal Assistance, Ministry of Justice of Ukraine, Kiev

UNION EUROPÉENNE / EUROPEAN UNION
(Présidence du Conseil de l'Union européenne : Hongrie / Presidency of the Council of the European Union: Hungary)

M. Fernando R. PAULINO PEREIRA, Responsable Coopération judiciaire en matière civile et commerciale, Conseil de l'Union européenne, Secrétariat général, Bruxelles

Mme Bente SØRENSEN, Administrateur, Unité Coopération judiciaire en matière civile, Conseil de l'Union européenne, Secrétariat général, Bruxelles

Ms Paraskevi MICHOU, Director of Directorate A: Civil Justice, European Commission, Directorate-General Justice, Freedom and Security, Judicial Co-operation in Civil Matters Unit, Brussels

Ms Patrizia DE LUCA, Team Leader Judicial Co-operation in Civil Matters, European Commission, Directorate General Justice, Brussels

Ms Elvina MORKYTE, Legal Officer of Civil Justice Unit JUST A.1, European Commission, Directorate-General Justice, Brussels

VENEZUELA

H.E. Mrs Haifa Aissami MADAH, Ambassador of Venezuela, Embassy of the Bolivarian Republic of Venezuela, The Hague

Mr Milton José MEZA RIVAS, Minister Counsellor, Embassy of the Bolivarian Republic of Venezuela, The Hague

OBSERVATEURS / OBSERVERS

États non membres invités / Non-Member States invited

COLOMBIE / COLOMBIA

Ms Solángel ORTIZ MEJÍA, Counsellor, Embassy of Colombia, The Hague

CUBA

Ms Kira RUIZ AMARO, Attaché, Embassy of Cuba, The Hague

LIBAN / LEBANON

Mr Rami ADWAN, First Secretary, Chargé d'affaires *a.i.*, Embassy of Lebanon, The Hague

Représentants d'organisations intergouvernementales / Representatives for Intergovernmental Organisations

ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

Excusé / Unable to attend

COMMISSION DES NATIONS UNIES POUR LE DROIT COMMERCIAL INTERNATIONAL (CNUDCI) / UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)

Excusé / Unable to attend

COMMISSION INTERNATIONALE DE L'ETAT CIVIL (CIEC) / INTERNATIONAL COMMISSION ON CIVIL STATUS

Mme Joanna SCHMIDT-SZALEWSKI, Secrétaire générale, Commission internationale de l'état civil, Secrétariat général, Strasbourg

CONSEIL DE L'EUROPE / COUNCIL OF EUROPE

Excusé / Unable to attend

INTER-AMERICAN CHILDREN'S INSTITUTE (IIN)

Excusé / Unable to attend

INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE / INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW (UNIDROIT)

Mr José Angelo ESTRELLA-FARIA, Secretary General, Institut international pour l'Unification du Droit privé (UNIDROIT), Rome

ORGANISATION DE COOPÉRATION ET DE DÉVELOPPEMENT ÉCONOMIQUES (OCDE) / ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

Excusé / Unable to attend

ORGANISATION MONDIALE DU COMMERCE (OMC) / WORLD TRADE ORGANIZATION (WTO)

Excusé / Unable to attend

SECRÉTARIAT DES PAYS DU COMMONWEALTH / COMMONWEALTH SECRETARIAT

Excusé / Unable to attend

UNION AFRICAINE (UA) / AFRICAN UNION (AU)

Excusé / Unable to attend

Représentants d'organisations non gouvernementales / Representatives for non-governmental organisations

ASOCIACIÓN AMERICANA DE DERECHO INTERNACIONAL PRIVADO (ASADIP) / AMERICAN ASSOCIATION OF PRIVATE INTERNATIONAL LAW

Ms Claudia LIMA MARQUES, President of *Asociación Americana de Derecho Internacional Privado*, Porto Alegre

Mr Diego P. FERNÁNDEZ ARROYO, *SciencesPo - École de Droit*, Paris

Mme Nadia DE ARAÚJO, Government Attorney; Professeur de droit international privé, *Pontificia Universidade Católica*, Rio de Janeiro

Ms Nuria GONZÁLEZ MARTIN, Professor, *Universidad Nacional Autónoma de México (UNAM)*, Mexico, DF

INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION (ISDA)

Excusé / Unable to attend

UNION INTERNATIONALE DES AVOCATS (UIA) / INTERNATIONAL UNION OF LAWYERS

Mr Sebastiaan MOOLENAAR, AKD Advocaten & Notarissen, Rotterdam
Mr Bart-Jan VAN HET KAAR, AKD Advocaten & Notarissen, Rotterdam

UNION INTERNATIONALE DES HUISSIERS DE JUSTICE (UIHJ) / INTERNATIONAL UNION OF JUDICIAL OFFICERS

M. Mathieu CHARDON, Premier Secrétaire, UIHJ, Montfort l'Amaury

UNION INTERNATIONALE DU NOTARIAT LATIN (UINL) / INTERNATIONAL UNION OF LATIN NOTARIES

M. Jeffrey A. TALPIS, Notaire; Professor of Private International Law, Centre de Commerce Mondial de Montréal, Montréal

EXPERTS INVITÉ / INVITED EXPERTS

Mr Daniel GIRSBERGER, Professor of Law, Universität Luzern, Luzern

Ms Louise Ellen TEITZ, Professor of Law, Roger Williams University School of Law, Bristol

SECRÉTARIAT / SECRETARIAT

Mr Hans VAN LOON, Secretary General
Mr William DUNCAN, Deputy Secretary General
M. Christophe BERNASCONI, Premier secrétaire
M. Philippe LORTIE, Premier secrétaire
Mrs Marta PERTEGÁS, First Secretary
Ms Jennifer DEGELING, Secretary
Ms Frederike STIKKELBROECK, Attaché to the Secretary General | Director, International Centre for Judicial Studies and Technical Assistance
Mr Ignacio GOICOECHEA, Liaison Legal Officer for Latin America
Mrs Laura MARTINEZ-MORA, Adoption Programme Co-ordinator
Ms Mayela CELIS AGUILAR, Legal Officer
Ms Juliane HIRSCH, Legal Officer
M. Nicolas SAUVAGE, Collaborateur juridique
Ms Hannah BAKER, Legal Officer
Ms Maja GROFF, Legal Officer
Mlle Sandrine PEPIT, Collaboratrice juridique

SECRÉTAIRES RÉDACTEURS / RECORDING SECRETARIES

Mlle Fanny CORNETTE, Doctorante en droit
Mlle Chloe GRENADOU, Elève avocat au Barreau de Paris
Mr Alexander KUNZELMANN, Legal Officer
Ms Micah THORNER, Legal Officer

INTERPRÈTES / INTERPRETERS

M. Christopher TYCZKA
M. William VALK
M. Derrick WORSDALE

BUREAU DU SECRÉTAIRE GÉNÉRAL / OFFICE OF THE SECRETARY GENERAL

Mrs Anna KOELEWIJN, Head of Administration
Mrs Laura MOLENAAR, Administrative Officer
Ms Karin HIMPENS, Financial Officer
Mrs Gerda BOERMAN, Website Manager
Mme Sophie PINEAU, Assistante administrative auprès du Secrétaire général
Mrs Willy DE ZOETE, Administrative Assistant to the Deputy Secretary General
Mme Mathilde WASZINK-PRÉNAS, Assistante administrative
Mrs Lydie DE LOOF, French Translator / Revisor
Mrs Jenny KLEIN MEULEKAMP, Junior Translator / Reviser
Mr Stuart HAWKINS, Administrative Assistant for the Adoption Programme
Ms Maryze BERKHOUT, Human Resources Assistant

FONCTIONNAIRES EN DÉTACHEMENT / OFFICIALS ON SECONDMENT

Mr Jung Hoon PARK

STAGIAIRES / INTERNS

Ms Clelia PESCE
Ms Kim PHAM

DOCUMENTS / REPRODUCTION

Mr Willem VAN DER ENDT, General Services Officer
Mr Cor KONING
Mr Jos VAN BATENBURG

CUISINE / KITCHEN

Mrs Anne-Marie KOOIJMAN

CONCLUSIONS ET RECOMMANDATIONS ADOPTÉES PAR LE CONSEIL / CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE COUNCIL

CONCLUSIONS AND RECOMMENDATIONS

ADOPTED BY THE COUNCIL

New Member States

1. The Council welcomed the Philippines, Mauritius and Costa Rica as new Member States of the Conference.

Review of activities of the Conference

2. The Council welcomed the review of the activities of the Conference carried out by the Permanent Bureau since the last Council meeting (7-9 April 2010).

Ceremonies for signing, ratifying of and acceding to certain Hague Conventions

3. The Council witnessed the signing of the *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* by the European Union and its ratification by Norway; the accession to the *Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations* and to the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* by Andorra; and the accession to the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* by Costa Rica, which thus became the 100th Contracting State of that Convention.

4. In addition, the Council welcomed the announcement that Burkina Faso had submitted its request for membership of the Hague Conference.

Current work

Choice of Law in International Contracts

5. The Council welcomed the progress made by the Working Group, notably the adoption of draft articles, and encouraged the continuation of the work. Upon completion of the draft articles by the Working Group, the Permanent Bureau is invited to report back to the Council and present a succinct document prepared by the Working Group highlighting the substance of the draft articles and indicating the policy choices involved.

6. The Council decided that the draft articles and the commentary prepared by the Working Group should be reviewed by a Special Commission at a later stage.

Preparation of the Special Commission on the practical operation of the 1980 and 1996 Conventions

7. The Council noted the plans for the Sixth Meeting of the Special Commission to review the practical operation of the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction* and the *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*. The meeting is to take place in two parts, the first part from 1-10 June 2011, and the second part tentatively from 24 January - 1 February 2012. The Council also noted the division of subject matter between the two parts and agreed that sufficient time should be made available in part two for a full discussion of the feasibility and desirability of a protocol to the 1980 Convention.

Working Party on Mediation in the context of the Malta Process

8. The Council welcomed the Principles for the establishment of mediation structures in the context of the Malta Process, developed by the Working Party, and agreed that the Principles should be presented for discussion at the Sixth Meeting of the Special Commission. The Council also requested the Working Party to continue work on the implementation of mediation structures in the context of the Malta Process and, in particular, with the support of the Permanent Bureau, and in light of discussions to take place at the Sixth Meeting of the Special Commission:

- to facilitate wider acceptance and implementation of the Principles as a basic framework for progress;
- to consider further elaboration of the Principles; and,
- to report to the Council in 2012 on progress.

Report, Conclusions and Recommendations of the open-ended Working Group of Members (2-3 December 2010)

9. The Council welcomed the Report of the open-ended Working Group of Members.

Governance of the Conference

10. The Council emphasised the importance of engaging all the Members in the work of the Conference, and recognised the value of open-ended Working Groups in achieving this objective.

Direction of the work of the Conference relating to technical assistance

11. The Council decided to form an open-ended Working Group to address the issues involved in the provision of technical assistance, and to examine and make recommendations in particular on:

- the role of the Conference in providing technical assistance;
- the priorities;
- human resource requirements;
- funding in relation to technical assistance; and
- the role of Members, experts and regional offices in providing technical assistance in their respective regions.

The Council accepted the Chair's proposal that the following Members would constitute the core membership of the Working Group (by region): the European Union, Germany, the Netherlands, Switzerland, Canada, the United States of America, Argentina, South Africa, China and Australia.

Resources

12. The Council decided that the broader issue of resources in general would be taken up by an open-ended Working Group at a later stage.

Future work

Accessing the content of foreign law and the need for the development of a global instrument in this area

13. The Council noted the further work undertaken by the Permanent Bureau in this area. The Council decided that the Permanent Bureau should continue monitoring developments but not at this point take any further steps in this area, and to revisit the issue at its next meeting.

Desirability and feasibility of a protocol to the *Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*

14. The Council noted the work undertaken by the Permanent Bureau pursuant to the mandate given by the Council at its meetings in 2009 and 2010.

Continuation of the Judgments Project

15. The Council recalled the conclusion adopted at its 2010 meeting concerning the continuation of the Judgments Project and stressed that any future work in this area should not interfere with the ongoing efforts to promote the entry into force of the Convention of 30 June 2005 on Choice of Court Agreements. The Council concluded that a small expert group should be set up to explore the background of the Judgments Project and recent developments with the aim to assess the possible merits of resuming the Judgments Project. The Permanent Bureau should report back to the Council in 2012 on progress.

The application of certain private international law techniques to aspects of international migration

16. The Council took note of the follow-up report and accepted that the Permanent Bureau would continue to explore, in consultation with interested Members and relevant international organisations, the potential value of using certain private international law techniques in the context of international migration.

Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements

17. The Council welcomed the Report prepared by the Permanent Bureau on the above subject.

18. The Council invited the Permanent Bureau to intensify its work in the area with emphasis on the broad range of issues arising from international surrogacy arrangements. The Permanent Bureau should during the next year continue gathering information on the practical needs in the area, comparative developments in domestic and private international law, and the prospects of achieving consensus on a global approach.

19. The Permanent Bureau should also consult with the legal profession as well as with health and other relevant professionals concerning the nature and incidence of the problems occurring in this area.

20. The Permanent Bureau should provide a preliminary report on progress to the Council in 2012.

Property law aspects of moveable assets

21. The Council agreed to the withdrawal of the above item from the Conference's Agenda.

Other topics

22. The Council invited the Permanent Bureau to continue to follow developments in the following areas:

a) questions of private international law raised by the information society, including electronic commerce, e-justice and data protection;

b) jurisdiction, and recognition and enforcement of decisions in matters of succession upon death;

c) jurisdiction, applicable law, and recognition and enforcement of judgments in respect of unmarried couples;

d) assessment and analysis of transnational legal issues relating to indirectly held securities, security interests and netting of financial instruments, taking into account in particular the work undertaken by other international organisations.

New topic added to the Conference's Agenda

23. The Council decided to add to the Agenda of the Conference the topic of the recognition of foreign civil protection orders made, for example, in the context of domestic violence cases, and instructed the Permanent Bureau to prepare a short note on the subject to assist the Council in deciding whether further work on this subject is warranted.

Post-Convention services and activities

24. The Council welcomed the successful outcome of the Special Commission of June 2010 on the practical operation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* and took note of its Conclusions and Recommendations.

25. The Council recommended that, following the completion of the Guide to Good Practice Number 2, an informal Working Group be established to assist the Permanent Bureau in examining the question of costs in Intercountry Adoption. The work of the Working Group should include consideration of Recommendation Number 4 of the Special Commission.[1]

26. The Council welcomed the developments in the field of the electronic Apostille Pilot Program (e-APP) and the presentation of a video on the implementation of the e-APP in Spain.

27. The Council agreed that work be undertaken with a view to preparing the next Special Commission on the practical operation of the Apostille Convention, tentatively scheduled for the second half of 2012.

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

[1] This Recommendation reads as follows: "The Special Commission recommended that the Permanent Bureau examine the feasibility of posting on the Hague Conference website tables indicating for each Contracting State the costs associated with intercountry adoption and the charges imposed on prospective adoptive parents […]."

ORDRE DU JOUR / AGENDA

AGENDA

MEETING OF THE COUNCIL
ON GENERAL AFFAIRS AND POLICY OF THE CONFERENCE

(5–7 April 2011)

The agenda will be treated with some flexibility and may need to be modified in the light of continuing discussions in the Council meeting, in particular concerning the items under future work.

Sessions will normally begin at 9.30 a.m. and end at 6.00 p.m., except for the final day (closure at 4.00 p.m. at the latest). Breaks for coffee will normally be from 11.00 to 11.15 a.m., lunch from 1.00 to 2.30 p.m. and tea from 4.00 to 4.15 p.m.

Tuesday 5 April 2011, 9.30 a.m.

I. Short overview of activities since the previous Council meeting (7–9 April 2010)

1. Overview of work accomplished in 2010
   See Annual Report 2010

2. Summary overview of work accomplished during the first quarter of 2011

3. Updating the implementation of the Strategic Plan
   See Strategic Plan Update, Preliminary Document No 3

II. Current work

1. Choice of Law in International Contracts
   See "Choice of Law in International Contracts: Development Process of the Draft Instrument", Preliminary Document No 6

2. Preparation of the Special Commission on the practical operation of the 1980 and 1996 Conventions
   See "Planning for the Sixth Meeting of the Special Commission to review the practical operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction *and the* Hague 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*", Preliminary Document No 14*

3. Working Group on Mediation in the context of the Malta Process
   See "Review of the activities of the Conference in regard to mediation", Preliminary Document No 10

III. Report, Conclusions and Recommendations of the open-ended Working Group of Members, 2-3 December 2010

See "Report of the meeting of the open-ended Working Group of Members (2-3 December 2010)", Preliminary Document No 5

1. Organisation and working methods:
   a) role of the Council on General Affairs and Policy: strengthening the engagement of Members
   b) strengthening the role of the Chair: group of "Friends of the Chair" and / or open-ended informal meeting of Members
   c) regulations for the Chair / Vice Chair(s) of the Council

d) working methods: handling and presentation of information

2. Outcome of the round table discussion on the four basic questions:[1] proposal to set up a Working Group on technical assistance

3. Taking stock and looking ahead: developments and achievements since the preparations for, and adoption of, the Strategic Plan (2000-2002)

4. Setting priorities:

- development of new Conventions and other normative instruments
- promotion of Conventions and Membership
- supporting implementation and operation of existing Conventions:
  - treaty administration
  - development of tools
  - adaptation of existing Conventions
  - maintaining global networks
  - problem solving
  - responding to individual requests
  - technical assistance
  - training and judicial education
- monitoring and review of existing Conventions
- regional developments and regional presence
- assistance to and co-operation with other international organisations

5. Resources:

- generally: proposal to set up a Working Group on funding
- specifically:
  A. staffing
  B. building: referral to Working Group on Pensions
  C. languages: role of Spanish as a working language
  D. regional offices

[To be continued on Wednesday afternoon, 6 April 2011]

NB: During the lunch break, an informal meeting will be organised by the Permanent Bureau to discuss progress relating to the establishment of a regional office for the Asia Pacific region. Experts of Member States from this region, as well as other interested experts, are invited to participate

6.00 p.m. Reception hosted by the Permanent Bureau in honour of Professor A.V.M. (Teun) Struycken who resigned as President of the Netherlands Standing Government Committee on Private International Law as of 31 December 2010

[1] What does the Conference currently do that it should not do? What should be done that is not being done? How to fund its activities? Need for change in the organisation and its working methods?

Wednesday 6 April 2011

IV. Future work: new topics

Under this heading there will be a discussion of any new topics which have been, or may be, suggested by the Members, the international organisations or the Permanent Bureau. See "Work programme of the Permanent Bureau for the next Financial Year (1 July 2011 – 30 June 2012)", Preliminary Document No 2 – Update prepared by the Permanent Bureau, with comments on some of the topics below:

1. Accessing the content of foreign law and the need for the development of a global instrument in this area
   See circular letter L.c. ON No 5(11) of 18 February 2011

2. Desirability and feasibility of a protocol to the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*

3. Continuation of the Judgments Project
   See "Continuation of the Judgments Project", Preliminary Document No 14 of February 2010 and "Review of the activities of the Conference in regard to the Choice of Court Convention", Preliminary Document No 12

4. The application of certain private international law techniques to aspects of international migration
   See Preliminary Document No 7 of February 2010

5. Private international law issues surrounding the status of children (excluding adoption), in particular the recognition of parent-child relationships (*filiation*), and concerning international surrogacy arrangements
   See "Report on the status of children (including surrogacy)", Preliminary Document No 11

6. The property law aspects of moveable assets
   Topic proposed by the European Union at the 2010 Council meeting, to be further elaborated

7. Other topics retained by the Council on the Conference's Agenda:

   a) questions of private international law raised by the information society, including electronic commerce, e-justice and data protection

   b) jurisdiction, and recognition and enforcement of decisions in matters of succession upon death

   c) jurisdiction, applicable law, and recognition and enforcement of judgments in respect of unmarried couples

   d) assessment and analysis of transnational legal issues relating to indirectly held securities and security interests, taking into account in particular the work undertaken by other international organisations

[To be continued on Thursday morning, 7 April 2011]

V. Round table on progress made concerning the signature and ratification of and accession to Hague Conventions

1. Twenty-First Session (2007) –
   a) *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*
   b) *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations*

2. Twentieth Session (2005) –
   Convention of 30 June 2005 on Choice of Court Agreements

3. Nineteenth Session (2002) –
   Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary

4. Eighteenth Session (1996) and the Special Commission of a Diplomatic Character (1999) –
   a) *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* and
   b) *Convention of 13 January 2000 on the International Protection of Adults*

5. Conventions adopted by the Hague Conference at earlier Diplomatic Sessions

12.00 p.m. Signatures, deposits of instruments of ratification, acceptance or approval of and accession to any Hague Conventions

VI. Support, monitoring, and adaptation of Conventions

A. Legal co-operation and litigation

1. Follow up on the Special Commission of 2 to 12 February 2009
   See "*Task list and status of implementation of Conclusions and Recommendations adopted by the Special Commission on the practical operation of the Hague Apostille, Service, Taking of Evidence and Access to Justice Conventions (2-12 February 2009) – Update No 1*", *Preliminary Document 13*

2. The e-APP Project

B. International protection of children, vulnerable adults, international family and family property relations

1. Follow-up on the Special Commission of June 2010 on the practical operation of the 1993 Convention (including progress in relation to Guides to Good Practice)
   See "Conclusions and Recommendations and report of the Special Commission on the practical operation of the 1993 Intercountry Adoption Convention (17-25 June 2010)", Preliminary Document No 4

2. Judicial networking and direct judicial communications

3. Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction
See "Projects concerning the Children's Conventions, maintenance, adults, cohabitation, status of children and international family relocation: Planning for 2011-2012", Preliminary Document No 7 and "Report of consultations carried out by the Permanent Bureau concerning the decision of the European Court of Human Rights in Raban v. Romania*", Information Document 4*

IX. Regional activities, International Centre for Judicial Studies and Technical Assistance

A. Regional programmes

B. Achievements, current developments, and future work programme 2011-2014 of the Centre

C. Funding of the Centre and its activities

VIII. Report, Conclusions and Recommendations of the open-ended Working Group of Members, 2-3 December 2010 (cont'd)

Thursday 7 April 2011

IX. Future work (cont'd)

X. Information on budgetary and funding matters

1. Proposed Budget for Financial Year LVII (1 July 2011 – 30 June 2012)
See "Draft Budget for Financial Year LVII (1 July 2011 – 30 June 2012) and Explanatory Notes", Preliminary Document No 8

2. Supplementary Budget for Financial Years LVII-LIX (1 July 2011 – 30 June 2014)
   - Part I: Special Projects and Expenses
     See "Draft Supplementary Budget for Financial Years LVII-LIX (1 July 2011 - 30 June 2014) and Explanatory Notes (Part I)", Preliminary Document No 9 A

   - Part II: International Centre for Judicial Studies and Technical Assistance
     See "Draft Supplementary Budget for Financial Years LVII-LIX (1 July 2011 - 30 June 2014) and Explanatory Notes (Part II)", Preliminary Document No 9 B

XI. Co-operation with other international organisations

1. Co-operation with UNCITRAL, UNIDROIT, UNICEF and other global organisations

2. Co-operation with the European Union and other regional organisations

XII. Conclusions

The meeting will end by 4.00 p.m. at the latest.

Annex A

Topics informally suggested to the Permanent Bureau:[1]

- development of a practical guide on comparative private international law (on a country-by-country or subject-by-subject basis);
- development of model bilateral agreements to facilitate the implementation of (multilateral) Hague Conventions;
- questions of private international law in relation to intellectual property issues;
- the international recovery of assets relevant to criminal law enforcement as well as to ordinary claims, and which is related to aspects of provisional and protective measures;
- conventions (or model laws) on the law applicable to specific contracts (barter transactions; trading in futures on a stock exchange);
- cross-border regulatory issues: how to preserve, through international co-operation and mutual enforcement, the integrity of the growing variety of regulatory systems in a converging world;
- feasibility study on the provision of enhanced legal assistance in particular for categories of cases such as small and / or uncontested claims (suggestion by the Special Commission of 2–12 February 2009).[2]

[1] See Prel. Doc. No 20 of March 2002 for the attention of the Nineteenth Session: "Observations concerning the strategy of the Hague Conference in reply to the Secretary General's letter of 30/31 July 2001" (topics already previously mentioned in the Agenda have been omitted).
[2] Referred to Annex A by the Council on General Affairs and Policy of March - April 2009.