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RAPPORT SUR LES TRAVAUX DE LA COMMISSION SPÉCIALE SUR LE FONCTIONNEMENT DE LA CONVENTION DU 15 NOVEMBRE 1965 RELATIVE À LA SIGNIFICATION ET LA NOTIFICATION À L"ÉTRANGER DES ACTES JUDICIAIRES ET EXTRAJUDICIAIRES EN MATIÈRE CIVILE OU COMMERCIALE

établi par le Bureau Permanent

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REPORT ON THE WORK OF THE SPECIAL COMMISSION ON THE OPERATION OF THE CONVENTION OF 15 NOVEMBER 1965 ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS

Drawn up by the Permanent Bureau

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

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The Special Commission on the operation of the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters met at The Hague from the 21st to the 25th of November 1977, with Mr T.B. Smith, the Canadian Expert, serving as Chairman.

This was the first time that a Special Commission had met within the Conference in order to discuss the operation of a Hague Convention. The meeting was very successful. Indeed, there were 28 Experts, the list of these being in the attached appendix, representing eleven States Parties to the Convention (Belgium, Denmark, Egypt, Finland, France, Japan, Netherlands, Norway, Sweden, United Kingdom, United States), seven States not Parties to the Convention (Australia, Austria, Canada, Germany, Greece, Ireland, Switzerland) and three international organisations (European Economic Communities, Commonwealth Secretariat, *Union internationale des Huissiers de Justice et Officiers judiciaires*). It should be pointed out that the Experts had been chosen from among the authorities who were in charge of the application of the Convention in practice. Thus it was possible to learn first-hand about the experience developed from application of the Convention.

The essence of the discussions had to do with the Convention of 15 November 1965. However, at the final session there was an exchange of views on two other Conventions of judicial and administrative cooperation prepared at The Hague, the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters of 18 March 1970 and the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents of 5 October 1961.

I. OPERATION OF THE CONVENTION OF 15 NOVEMBER 1965 ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS

The discussion commenced with a round of general comments, from which it emerged that the Convention met a real need and that it raised no major problems among the Contracting States. It appeared in addition that certain non-Contracting States intended in the fairly near future to ratify this Convention, to which there was an express reference in article 20, third paragraph, of the Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, prepared by the States of the European Economic Community.

Then the Commission proceeded to consider the list of items for discussion, Preliminary Document No 2 of August 1977, prepared by the Permanent Bureau on the basis of observations from the Governments contained in Preliminary Document No 1 of August 1977 (supplemented by an addendum of October 1977).

In the course of the discussions, it became apparent that the preparation of a practical guide to the operation of the Convention among the Member States could provide substantial benefit. Of course, this meeting had no capacity to take the formal decision to publish such a guide, but it was determined that the Commission, concordantly with the Permanent Bureau of the Conference, favoured the following procedure: the Permanent Bureau would draft a summary of the discussions as a whole and of the recommendations made at the meeting and would prepare a list of questions, to which the Experts agreed to reply, which would permit the assembly of basic documentation on the practice under the Convention. The assembled replies might be made up into a document which would be sent in a first stage to the Experts and to the National Organs for comments and criticism. In the second stage it would then be seen, taking into account the dictates of the budget, whether and in what form a practical guide might be prepared.

The exposition set out below is intended to respond to these wishes.

§ 1 Summary of the actions taken and the recommendations made concerning the Convention of 15 November 1965

A Scope of the Convention: breadth of the concept of "civil or commercial matters"

The Convention is applicable "in civil or commercial matters". The interpretation of these terms brought on lively discussions, for it was recognised that the accepted meaning could be substantially different as between one system and another. For some, the concept covered everything which was not criminal, for others everything which was neither criminal nor having to do with taxes, for yet others everything which was not a criminal, tax or administrative matter. Finally, in the Egyptian system of personal laws matters of personal status are not considered to be civil matters. There appeared besides very deep differences concerning the determination of the law applicable to characterisation of these matters. Some looked to the system of the requesting States, others to the system of the States addressed. The authors of the Convention of 1965 had refused to deal with this question, leaving it to the States Parties to solve it. It appeared that, in practice, the Central Authorities were very liberal, being ready to serve documents which they would not be obligated to serve under the terms of the Convention, this for the purpose of rendering service to the addressee, the only effective barriers being raised against service in criminal or tax matters. This is why, realising that it would not be possible for them to recommend a uniform solution acceptable to all the States, the Experts limited themselves to expressing the wish that the Convention be applied in the most liberal possible manner in respect of the scope of its subject matter.

B Transmission of requests for service by the Central Authority

The process of transmission of requests for service by the Central Authority is the principal method provided in the Convention and it constitutes an innovation. The Central authority is a receiving authority and, in principle, the sending of requests abroad bypasses it. The result is that the Central Authority may know the number and the sources of the requests which are addressed to it, but often they can get no information on the requests emanating from their own countries. This why it seemed useful that, so far as was possible, each one of the Central Authorities make known some basic statistics on the number and the sources of requests emanating from the Contracting States, which would permit the Permanent Bureau to prepare a table facilitating the mutual exchange of information. It seemed astonishing, for example, that very numerous requests coming from France reached the Central Authorities of the United Kingdom and the United States, while no request deriving from these countries had been addressed to the French Central Authority.

1 Receipt of requests for service

a) Problems of incomplete and inaccurate addresses

The Convention does not apply when the address of the person to be served with the document is not known (article 1, second paragraph). The reactions of the Central Authorities of the Member States proved to be very liberal when the address was incomplete, inaccurate or fictitious, as well as when there was a change of address. In these situations, indeed, it appeared that the Central Authorities attempt to find out the correct address of the person to be served with a document and do not fall back on the provisions of article 1, second paragraph, in order to refuse to activate the treaty mechanism. On the practical level, the Commission supported the suggestion of the Export of the United Kingdom, under which the form for request might be supplemented by the addition of a space in which it would be indicated where the Central Authority addressed might inquire in order to obtain additional information in case there was difficulty concerning the address of the person to be served. It is preferable indeed to ask for supplementary information, rather than to send back the file.

The problem of making service on military personnel stationed abroad and having coded secret addresses was mentioned. For this situation it was suggested that the Central Authority of the State addressed entrust the act to be served either to the military authorities or to the consul of that State resident in the foreign country where the serviceman is stationed.

The address is an element in the identification of the person to be served. In this connection there was stress on the importance of setting down very exactly the name of the person to be served, particularly when this is a corporation, association, foundation, or other legal entity. Any difference between the name as set out in the request and the official name of the addressee carries the risk of vitiating the service. If there is a difference in the name as set out in the document to be served and in the request for service, it is recommended that the name as set out in the document to be served be the one which is taken into consideration.

b) Organisation of the Central Authorities

The discussions showed that the organisation of the Central Authorities was generally centralised even though article 18 permitted the designation of additional authorities. One federal State, Germany, intended however to designate several Central Authorities when it became a Party.

The Central Authorities are made up of offices comprised of varying numbers of persons. The discussions brought out the face that the "Central Authorities" designated under the Convention of 15 November 1965 also serve as Central Authorities to carry out the Convention on the Taking of Evidence Abroad. In certain countries, such as France, the governmental officials acting as the Central Authority centralise in addition everything which concerns international judicial cooperation for private law (for example, problems of recovery of maintenance due from abroad or problems in reestablishing custody following the kidnapping of a child to a foreign country).

c) Objections to the request and refusal to comply

The Commission discussed at the same time the problem of objections to the request which are specified (article 4) and of refusals to comply because of infringement of the sovereignty or security of the State (article 13). It appeared that refusals to comply because of infringement of the sovereignty or security of the State occurred very seldom. The examples given were of an exceptional nature (a lawsuit instituted abroad against a national judge seeking damages arising from the exercise of his judicial authority, a summons to appear before a foreign court addressed to the national monarch, *etc*.).

Likewise the discussion showed that very few objections were raised up against requests for service, formal irregularities being usually handled directly by the Central Authority of the State addressed (for example, a photocopy being made of the original if two copies had not been provided) The question however was raised of what the Central Authority should do when the time for appearance set out in the document had already been passed at the time of the request for service. It was determined that this situation occurred rather frequently in practice, the period of time for appearance provided by the Codes of Civil Procedure being often rather short. However it was noted that these time periods for appearance are far from being definitive. It very rarely occurs that the judge makes a decision on the merits at the expiration of the time period, for in most legal systems there is a practice of postponing the hearing. Besides, article 15 obliges the judge to stay his decision so long as it has not been proved that the summons to appear has been served upon or otherwise delivered to the defendant. In any case, then, it appeared that it was always in the interest of the defendant to be kept informed of proceedings initiated against him abroad. This is why the Commission decided to recommend that, even if the time for appearance provided in the document had passed, the document still be served unless the requesting authority expressly specified otherwise. The Commission supported the suggestion of the Expert of the United Kingdom to the effect that the form for request might for this type of situation be supplemented by a statement specifying that the document should be served before a certain date and, if this was not possible, either that it should be returned unserved, or that it should nevertheless be served whenever possible.

2 <u>Effecting Service</u>

The problems of effecting service through the medium of the Central Authorities brought on extensive discussion, for these problems encompassed the questions concerning

requirements for translation of documents and payment of costs or expanses. It seemed desirable that the Permanent Bureau obtain additional information on these points.

a) Method of service

- Informal delivery (*simple reprise*). Article 5, second paragraph, provides that unless a particular method is requested, the document may always be served by delivery to an addressee who accepts it voluntarily. This method of informal delivery is by far the most broadly used approach in a substantial number of Contracting States (for example the Scandinavian countries, France, Belgium and the Netherlands). The person who delivers the document is often a police official. In most of the cases, the addressees accept the document voluntarily or come down to pick it up at the police station, which dispenses with the need for translation of the documents to be served and renders the making of service free of costs.

- Form required by the law of the State addressed. In a certain number of countries, the Central Authority always acts through a public official who carries out the service in the form required for the service of a summons in that country (for example in the United States, there is systematic use of the United States Marshals). In practice, informal delivery is therefore shunned, and this can bring on requirements for translation of the documents and payment of costs. In other countries, as in France, Belgium and the Netherlands, the use of a process server is required where the addressee has not accepted the document voluntarily.

- Particular method. The discussions showed that the use of a particular method is very seldom requested by the applicant. Where such a method has been requested, as for example in the United States, the requests were able to be satisfied, for the procedure requested was not incompatible with local law. The Expert of the United States brought out the fact that one way of rendering formal intervention on the part of the United States Marshals unnecessary would be to specify in the request that service might be made by the United States Central Authority by certified mail with return receipt requested. If this mailing is accepted, the formalities will then be carried out free of charge.

b) Translation of the documents

Rather marked divergences appeared in the practices of the Contracting States. Certain States made it known that in case of informal delivery (*remise simple*) translation was not required but that, when formal service had to be carried out, their procedures required a full translation of the document to be served. In the American system translation can likewise be required since service is always formal. Now, the costs of translation are considerable. The Expert of the United States recommended as in administrative practice in the States parties to the Convention that the summary of the essential elements of the document accompanying every request for service be set out in the language of the State addressed, although the Convention permits the use of French or English. In his country, for example, that would avoid the necessity of translating the document itself. This recommendation was received with some reservations as to the usefulness of such a practice in respect of the countries which use the procedure of informal delivery of the document or where the addressee is a multinational corporation having its own multilingual legal department.

c) Costs

In the countries which have the practice of informal delivery (*remise simple*), service is free of charge. It is likewise free of charge in Egypt even though process servers attached to the Courts are employed. On the other hand, in the United Kingdom and in the United States service always calls for payment of costs since informal delivery is not part of the practice. After a long discussion it appeared that, if there had to be payment of costs, this payment should be made on the basis of a fixed fee. Along these lines, the French and Belgium process servers likewise favour the use of a fixed fee where their services are requested.

Certain Experts representing States where service is usually made free of charge let it be known that their authorities were thinking of moving towards a system of reciprocity.

Informal delivery, free of charge, would continue to be the practice for requests deriving from States which likewise had the practice of such informal delivery. On the other hand, for requests deriving from States where service is always formal, and therefore expensive, formal service would be carried out, resulting in the payment of costs.

d) Certificate of service

After a question was raised as to whether it was useful to send two copies of the document to be served, the Commission entered into an exchange of views concerning the use which is presently made of the second copy. After discussion, the Experts agreed that the second copy met an important need and they recommended that it be systematically sent back to the requesting authority with the certificate of service in order to permit that authority to identify exactly the document which had been served, particularly where a lawsuit results in several sets of pleadings.

The Experts then proceeded to an exchange of information on the practices of different States in respect of the authorities competent to fill out the certificate. Under article 6, it is the Central Authority of the State addressed or any other centralised authority designated for this purpose by the State addressed which is competent. These designations, communicated to the depositary of the Convention pursuant to article 21, first paragraph, sub-paragraph (b), might usefully be included in a practical handbook.

3 Forwarding of requests for service

a) Forwarding authorities

Under article 3 of the Convention it is the authority or judicial officer competent under the law of the State in which the documents originate who forwards directly to the Central authority of the State addressed a request for service.

The Convention does not obligate the States to list the persons or authorities who are competent under their law to present a request. The receiving Central Authorities do not, then, know what are the competent forwarding authorities in the other Contracting States. When information was requested on this point, it was seen that the range of persons and authorities authorised to forward requests for service was very broad. In most of the Contracting States these are decentralised authorities: courts or tribunals, clerks, process servers, *huissiers*, *etc*. In other legal systems, France or Egypt for example, these requests are channeled through the Central Authority. The problem of requests for service forwarded by lawyers was raised, it having been intended in the Convention to exclude the forwarding of a request by a private person. It was pointed out that in certain systems lawyers make service under the control of the courts and that they could therefore be assimilated to a judicial officer or to an *officier ministériel*.

But even within a given legal system the persons competent may be very numerous. In the French system, for example, requests emanate from the *Procureur de la République* and are channeled through the Central Authority, but they may also emanate directly from process servers, from court clerks in certain cases, *etc*.

Furthermore, the discussion brought out the fact that the Central Authorities were very liberal and that they did not systematically monitor the competence of the forwarding authorities. It appeared to the Commission that, aside from certain cases involving fantasy or malice, a request for service forwarded abroad met a precise need, and it could be presumed that such a request was in compliance with the procedural law of the forum, since this step would otherwise make no sense.

Finally, the Commission was of the opinion that the establishment of an exhaustive list of forwarding authorities by each of the Contracting States would be impossible to achieve in practice as well as dangerous, for it would lead towards stricter control than that which was currently being exercised.

On the other hand, after a long discussion, the Commission agreed, following comments from around the table, on the following formulation:

- Each State Party to the Convention would establish for purposes of information a very general list indicating its forwarding authorities, a list which would be attached to the document which the Permanent Bureau proposed to draft.

- In cases which might be doubtful it was recommended that the forwarding authority set out its capacity and its competence in the request for service, referring for example to the local rules of procedure. This is moreover the procedure utilised by the US Marshals pursuant to the circular emanating from the United States Department of Justice.

- It was recognised by the Commission that the Central Authority of the State addressed might in exceptional cases ask the Central Authority of the State in which the documents originate for information concerning the competence of the forwarding authority.

b) Model form

The forwarding authorities should in principle employ the model form annexed to the Convention. In respect of the model form it was pointed out that there was an interest in not changing the order of the items of information, so that misunderstandings would be avoided. However, the form prepared by France which was included in Preliminary Document No 1, although it varied to some extent from the model form, had raised some interest because of its practical character particularly in so far as it gave more detail under the items concerning the name and the address of the addressee and brought out very clearly in the certificate the identity and the address of the applicant to whom the documents should be returned. A certain number of Contracting States circulated the forms used in their jurisdictions (Nordic countries, United States, Netherlands). These forms, some bilingual and some trilingual, raised no criticism.

C Other channels of transmission

1 Consular channels

The Convention provides two modes for employment of consular channels, the direct channel (service effectuated directly by the Consul of the requesting State on the addressee) and the indirect channel (transmission of the document to be served by the Consul of the requesting State to an authority of the State addressed). The discussion revealed that the practices of the Member States were not uniform, some countries having completely abandoned consular channels in their relations with the States Parties to the Convention, others making use of this channel occasionally, others finally continuing to employ consular channels systematically to the disadvantage of the channel by way of the Central Authority (for example: the United Kingdom acting within the framework of its bilateral Conventions). The direct consular channel continued to be rather often employed for service on nationals of the requesting State of documents drafted in the language of that State. Concerning the indirect channel, the Experts had differing opinions on the value of this mode of transmission, some considering that it could speed up service while others charged that it brought on serious delays.

2 Postal channels

It was determined that most of the States made no objection to the service of judicial documents coming from abroad directly by mail in their territory. For those States which objected to this channel, a distinction was made between use of the postal channel as the sole method of service and service through the postal channel which was complementary to another means of effecting service. In this latter case, postal transmission of the judicial dominant should not be considered as being an infringement on the sovereignty of the State addressed. But of course it was desirable then to take into account only the date of the formal service, particularly where the operation of article 15 was concerned.

3 Service made by forwarding documents from one process server to another (*Notification d"huissier à huissier*)

Article 10 (b) permits the judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the efforts of the judicial officials or other competent persons of the State of destination. In fact, such a system of direct communication between competent persons operates at present in the relations between countries which have the institution known as *huissiers de justice*. Article IV of the Protocole annexed to the Brussels Convention of 27 September 1968

provides furthermore for such a system of service by forwarding documents from one process server to another. The representative of the *Union internationale des Huissiers* explained the mechanism, employed in particular in contacts between France and Belgium: the process server of the requesting State sends the documents to be served to the national professional organ of the State addressed, which transmits this request to a process server competent to make service in the particular territory. In order to facilitate this mechanism the professional organisations have agreed among themselves that in each State there will be a single fee for service of documents coming from abroad.

From the contacts made in the course of the meeting it came about that the system of service of documents by forwarding them from one process server to another might possibly be extended and organised in relations with States where there are in existence persons customarily charged with effecting service of judicial documents.

D Guarantees under the Convention

Articles 15 and 16 provide protective guarantees under the Convention by obligating the judge to stay the entry of a decision so long as service has not been effected during a certain period of time and by permitting the judge to relieve the defendant from the effects of the expiration of the time for appeal from the judgment, where the defendant learned of the judgment or was served with it only after expiration of the time for appeal.

The discussion showed that these provisions had not had much impact on the case law of the Member States, which could be explained by the fact that, in practice, service to be carried out abroad had become, thanks to the Convention, more rapid and more efficacious.

That being the case, the Commission took note of the fact that all of the questions which the implication of these articles could raise, as for example the concept of "in sufficient time"", were matters for independent evaluation by the Courts.

This is why the Commission limited itself to suggesting that the States Parties to the Convention communicate systematically to the Permanent Bureau the court decisions which dealt with articles 15 and 16 of the Convention in order that a mutual exchange of information might be organised.

E Extrajudicial documents

The discussions of the Commission on this point made it possible to determine that a great number of extrajudicial documents are in fact transmitted through the medium of the Central Authorities. Extrajudicial documents differ from judicial documents in that they are not directly connected with lawsuits, and they are distinguished from purely private acts by the fact that they require the intervention of an "authority" or of a "judicial officer" under the terms of the Convention. Examples given were demands for payment, notices to quit in connection with leaseholds, and protests in connection with bills of exchange, but all on the condition that they emanate from an authority or from a process server. There was also mention made of instruments such as objections to marriage, consent to adoption, *etc*. which required certain formalities. The discussion brought out the fact that in certain systems, for example in England and in Ireland, such documents are served by private persons with identical legal effect. Therefore, although it was the intent of the Convention to exclude from article 17 documents emanating from private persons, at the request of the Experts of the United Kingdom and of Ireland, the Commission encouraged the Central Authorities to serve extrajudicial documents not emanating from an authority or from a judicial officer if these documents were of a type which normally would call for the intervention of an authority in their countries.

F Special agreements and supplementary agreements

In respect of article 25 the discussion showed that there were in existence a great number of bilateral and multilateral agreements which were superimposed on the Convention of 1965. In general, it is accepted in the Contracting States that the parties may employ either the channels provided in the Convention or those provided for by the special agreement.

As concerns article 24, it was agreed that this provision meant that agreements which were supplementary to the Conventions of 1905 and 1954 were also considered to be agreements supplementary to the Convention of 1965, unless the States concerned agreed otherwise.

In respect of article 11 certain States explained that they had provided for direct communication between their respective authorities.

Finally it seamed to the Commission that it would be very useful to facilitate mutual knowledge of all these supplementary and special agreements, which might be referred to in the document to be prepared by the Permanent Bureau.

§ 2 Questions to which the Experts agreed to reply

With a view to preparing a document which would facilitate a mutual exchange of information and which might serve as a basis for the possible preparation of a practical handbook, the Experts agreed to reply to a certain number of questions. To be sure these questions are primarily directed to the Experts of the countries which are Parties to this Convention. However, any replies or observations emanating from the Experts of other States would be welcome.

1 Forwarding authority

The Experts are asked to list the persons or authorities which, in their countries, may have the capacity to present a request for service to a Central Authority abroad under article 3.

2 Receiving Central Authority

At the time when the communication has been sent to the Ministry of Foreign Affairs of the Netherlands, the Central Authority has at times been designated in a very general fashion (for example: Ministry of Justice). If they consider this to be useful, the Experts are asked to give additional information concerning the identification and the exact address of the recipient authority. It would be very useful if the Experts could furnish statistical information on an annual basis concerning the nature and the sources of the documents which are addressed to them. The collation of this information would permit preparation of a table.

3 Methods of service employed by the Central Authority

The Experts are asked to summarize the methods which are or can be employed by the Central Authority in order to effect service of the document: description of the procedure for informal delivery (utilisation of the police departments or of public officials, *etc*.), formal procedure through a process server or a public official, forms which might be utilised on request (for example, service by post by the Central Authority).

In connection with these descriptions, the Experts are asked to set out the scope and the coverage of the requirements for possible translation (translation of the summary, translation of the documents to be served, *etc*.).

The Experts are likewise asked to indicate what costs may possibly be incurred by one or the other mode of service (in particular, whether the fees are fixed or proportional), as well as the procedure required for the payment of costs (attached cheques, *etc*.).

4 Consular channel

It would be of interest to know the extent to which consular channels, whether direct or indirect, continue to be employed by certain requesting States to the disadvantage of the channel by way of the Central Authority of the State addressed.

5 Postal channels

It would be useful to know what States permit the use of postal channels for purposes of service on addressees located abroad.

It would likewise be helpful to know those States where the use of postal channels is authorised in internal relations but stands prohibited in international relations.

The States which object to the utilisation of service by post sent from abroad are known thanks to the declarations made to the Ministry of Foreign Affairs.

6 Service by forwarding the documents from one process server to another

The Experts, as well as the representatives of the *Union internationale des Huissiers de Justice*, are asked to make known the extent to which the system of service by forwarding documents from one process server to another is in operation, as well as the States among which and the manner in which it functions. Information concerning the method of transmission, the costs of service and the manner of payment of costs would be useful.

7 Stays of entry of judgment and relief from expiration of the period of time for appear (articles 15 and 16)

The Experts are asked to make known the decisions which have already been handed down on these questions by the Courts of the Contracting States.

8 Extrajudicial documents

The Experts are asked to indicate what types of extrajudicial documents are employed in practice in the Member States, what are the authorities, judicial officers or persons competent to prepare such documents and whether these documents are suitable for transmission abroad.

9 Special agreements and supplementary agreements

The Experts are asked to make known the special agreements and the supplementary agreements which bind their Governments to other Contracting States and to state, in respect of each: such agreement, whether the mechanism provided by that agreement is employed exclusively or such mechanism can be utilised as an alternative to the mechanism of the Convention of 1965.

II. EXCHANGE OF VIEWS ON THE CONVENTION OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS

The Experts thought that it would be useful to enter into a rapid exchange of views on the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. This Convention instituted Central Authorities which, in practice, turn out to be the same as those set up under the Convention on service of documents.

This Convention is already in force for ten Member States and it seems to have fulfilled its purpose which is to facilitate cooperation in relations between Member States with very different judicial structures, the continental countries and the common law countries. However, some misunderstandings seem still to hold sway among the Member States in regard to certain institutions, and the desirability of an analysis in depth of the operation of this Convention became apparent. The Permanent Bureau of the Conference made it known that it might be possible to plan for the meeting of a Special Commission lasting several days on this subject, if the Governments were in agreement, and the Experts indicated that they were unanimously in favour of such an undertaking.

If the Special Commission is in fact convened, the Permanent Bureau will take on the task of preparing preliminary documents similar to those which were issued in connection with the Special Commission meeting just held. In order to facilitate the preparation of these documents, the Permanent Bureau plans to prepare a questionnaire which will allow Contracting States, as well as non-Contracting States, to make known more exactly their observations.

III. EXCHANGES OF VIEWS ON THE CONVENTION OF 5 OCTOBER 1961 ABOLISHING THE REQUIREMENT OF LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS

The Expert of the United Kingdom undertook to draw attention to the advantages offered by the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation

for Foreign Public Documents. The certificate (*apostille*) applied or attached at the base of a public document by an authority of the country where the document has originated replaces the heavy and costly chain of traditional legalisations. As a result international circulation of the document becomes much more easy. The exchange of views showed that the mechanism of this Convention had brought on no disputes and that requests for verification of the origin of the document were very rare. Once again the attention of the countries which have no requirement on their own territory for the legalisation of documents coming from foreign countries was drawn to the interest which ratification of the Convention would have for them. Indeed, these countries may continue to exempt foreign public documents from any requirement of legalisation but their own public documents will benefit in the other Contracting States by being exempted from consular legalisation, if they are provided with the certificate established in the Convention. The Permanent Bureau pointed out that the explanatory report of Mr Yvon Loussouarn had been translated into the English language by the authorities of the United Kingdom and that this translation would be sent to all Member States of the Conference.

ANNEX

COMPOSITION OF THE SPECIAL COMMISSION

Australia	Mr R. J. Muller, Third Secretary, Australian Embassy, The Hague
Austria	Mr W. Reishofer, Head of Division, Federal Ministry of Justice
Belgium	Mr F. Guisson, Magistrat délégué at the Ministry of Justice Mr G. van Keer, Secretary of Administration, Chief of the Office of Judicial Affairs, Ministry of Foreign Affairs
Canada	Mr T. B. Smith QC, Departmental General Counsel, Department of Justice, Ottawa, *Chair of the Special Commission*
Denmark	Mr C. J. Kjaersgaard, Judge, The Court of the City of Copenhagen
Arab Republic of Egypt	Mr Moustafa Kamal Celim, Vice President of the Court of Cassation Mr Gamal Abdel Halim Hassan, Office of Legal and Judicial Studies, Ministry of Justice
Finland	Mr H. Brunberg, Counsellor, Ministry of Foreign Affairs Mr G. Möller, Legislative Counsellor, Ministry of Justice
France	Mr L. Chatin, Magistrat, Head of the Office of International Judicial Assistance, Ministry of Justice Mrs R. B. G. Therin, Deputy Head of the Office of International Judicial Assistance, Ministry of Justice
Federal Republic of Germany	Mr J. Pirrung, Regierungsdirektor, Federal Ministry of Justice
Greece	Mrs P. Yessiou-Faltsi, Assistant Professor, University of Thessaloniki
Ireland	Mr R. Hayes, Director of Research, Law Reform Commission Mr P. A. Terry, Assistance Secretary, Department of Justice
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Norway	Mr E. Pettersen, Counsellor, Ministry of Justice
Netherlands	Mr A. J. van Duijne Strobosch, Director, Ministry of Justice
Sweden	Mr S. Kohwü-Christersen, Head of Section, Ministry of Foreign Affairs
Switzerland	Mr P. Schmid, Head of the International Judicial Assistance Section, Federal Division of Police

United Kingdom	Mr B. R. G. B. Smedley, Counsellor, H M Diplomatic Service, London
United States	Mr B. Ristau, Chief, Foreign Litigation, Department of Justice, Washington DC

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Union Internationale des Huissiers de Justice et Officiers judiciaires	Mr A. Huthwohl, President Mr P.-G. André
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