

Council on General Affairs and Policy of the Conference – March 2018

Document	Preliminary Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	No 18 of February 2018
Title	Policy on Observers at Meetings of the Hague Conference on Private International Law	
Author	Permanent Bureau	
Agenda item	Item VI.5	
Mandate(s)	n.a.	
Objective	To approve the Policy on Observers at Meetings of the Hague Conference on Private International Law.	
Action to be taken	For Approval <input checked="" type="checkbox"/> For Decision <input type="checkbox"/> For Information <input type="checkbox"/>	
Annexes	Policy on Observers at Meetings of the Hague Conference on Private International Law	
Related documents	The Rules of Procedure of the Hague Conference on Private International Law	

A. Introduction

1. With this Preliminary Document, the Permanent Bureau (PB) seeks the approval for a written policy governing questions concerning Observers and their respective status at meetings of the Hague Conference on Private International Law (HCCH).

B. Committing to writing established practices of the HCCH

2. The HCCH has a long-standing tradition of allowing Observers to participate in its meetings and over time, practices surrounding the conditions under which Observers are allowed to participate in meetings, and the extent to which they can participate, evolved and developed further. Committing to writing such practices ensures that the rules relating to observer participation are easily accessible, clear and transparent.

C. A Policy on Observers at Meetings of the Hague Conference on Private International Law

3. Annex I sets out the proposed Observer Policy which commits to writing rules which are current practices, established and exercised by the PB over many years. The Policy emphasises that Observers are an invaluable element of the meetings of the HCCH, and sets out who, in addition to Members of the HCCH, may participate in these meetings. In addition, the Policy also states the rights and obligations of the Observers.

D. Conclusion

4. Committing to writing current practices regarding observers at meetings of the HCCH will assist the PB in dealing efficiently and effectively with requests to join meetings as an Observer. Members are invited to consider and approve the annexed proposed Observer Policy for the HCCH.

5. Because a number of international organisations not dissimilar to the HCCH have equally committed such procedures to writing, including, in some instances, as Rules on Observers in their Rules of Procedure,¹ the PB suggests that the Annex can be seen as part of the potentially forthcoming work on new Rules of Procedure, for which the PB seeks a mandate at this Meeting of the Council on General Affairs and Policy.²

¹ For reference, see the Rules of Procedure of the Organisation of the OECD, and the Rules of Procedure of the European Council.

² "Proposed new Rules of Procedure", Prel. Doc. No 19 of February 2018, for the attention of the Council of March 2018 on General Affairs and Policy of the Conference.

A N N E X

Policy on Observers at Meetings of the Hague Conference on Private International Law

A. Scope of the Policy

1. The Policy on Observers at Meetings of the Hague Conference on Private International Law (HCCH) sets out who, in addition to Members of the HCCH, may participate in those Meetings as Observers, as well as the rights and obligations Observers may have.

B. Observers

2. There are four categories of Observers that may participate in HCCH Meetings: (i) Intergovernmental Organisations (IGO); (ii) Non-Governmental International Organisations (NGO); (iii) Admitted States (AS); and (iv) Other Interested States (OIS):

Categories of Observers	Relevant Criteria for the Purposes of this Policy
IGO	<ul style="list-style-type: none"> • Composed primarily of sovereign States, or of other intergovernmental organisations • Of regional or global character • Relevant subject matter expertise or interest in the work of the HCCH • For an IGO to attend a meeting of the HCCH it is not necessary for all its Members also to be Members of the HCCH
NGO	<ul style="list-style-type: none"> • Composed of professionals, individuals, national sections (chapters) or associations from different States • Can demonstrate a regional or international character in its membership, mandate, outreach, and governing structure • Relevant subject matter expertise or interest in the work of the HCCH
AS	<ul style="list-style-type: none"> • Has deposited a request to become a Member of the HCCH and has been admitted by the existing Members of the HCCH as a result of the six-month voting procedure, but has <i>not</i> yet deposited its instrument of acceptance of the Statute of the HCCH (see Art. 2 of the Statute of the HCCH)
OIS	<ul style="list-style-type: none"> • Has deposited a request to become a Member of the HCCH but the six-month voting period is not completed by the time the meeting starts • Has not yet deposited a request to become a Member of the HCCH but has clearly indicated and confirmed, in writing, its intention to become a Member of the HCCH • In relation to a non-legislative Special Commission meeting, a non-Member non-Contracting State that has clearly indicated and confirmed, in writing, its intention to join the Convention under review

C. Meetings

3. The meetings considered for this Policy are meetings of: (i) the Council on General Affairs and Policy (CGAP), (ii) the Council of Diplomatic Representatives (CDR), (iii) a Special Commission of legislative nature (SC-L; *i.e.*, an SC mandated to develop a new Hague Convention or other legislative instrument of the HCCH); (iv) a Special Commission of non-legislative nature (SC-R; *i.e.*, an SC mandated to review the practical operation of an existing Hague Convention or other legislative instrument of the HCCH); (v) a Working Group; and (vi) an Experts' Group.

4. Observers must be issued an invitation to attend a meeting. Depending upon the meeting, and subject to space availability, the Secretary General, where needed after consultation with the (designated) Chair of the meeting and / or the Chair of the CGAP, may extend an invitation to Observers of the following categories:

Meeting	Observers that May be Invited to Attend
CGAP	IGO, NGO, AS, OIS
CDR	AS
SC-L	IGO, NGO, AS, OIS
SC-R*	IGO, NGO, AS, OIS
WG	IGO, NGO, AS
EG	IGO, NGO, AS
<p><i>* In the case of an SC-R meeting, non-Member Contracting States are not considered to be Observers and are invited in their capacity as Contracting States. In participating in such a non-legislative Special Commission meeting, they enjoy the same rights as a Member Contracting State and are not subject to the restrictions mentioned under D.</i></p>	

5. If the venue of the meeting may not offer enough space for all interested attendees, Members of the HCCH will always have priority over any Observers, and AS will have priority over other Observers.

6. The Secretary General may decide, where needed after consultation with the Chair of the meeting and / or the Chair of the CGAP, to revoke an invitation prior to the Meeting for which it was issued.

D. Rights

7. Observers have the right to intervene and participate in all aspects of the meeting; however, they do not have a right to vote, and their interventions are not considered with regards to reaching consensus.

8. To ensure an effective and efficient Meeting, the Chair of the Meeting may:

- a. delay or restrict the interventions of Observers; and
- b. deny Observers the floor if:
 - i. the intervention would create undue delay in the agenda; or
 - ii. the discussions already had were of such detail and length that further interventions of Observers would be unnecessary.