

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.

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 [...]."

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.