

CONCLUSIONS & RECOMMENDATIONS

ADOPTED BY THE COUNCIL

1. From 13 to 15 March 2018, 171 participants took part in the Council on General Affairs and Policy of the Conference, representing 63 Members, one REIO and observers from four IGOs and eight NGOs.¹

Ceremonies for signing and ratification of Hague Conventions

2. The Council witnessed the signature and ratification by Portugal of the *Hague Convention of 13 January 2000 on the International Protection of Adults*.

Work relating to possible new instruments

Judgments

3. The Council welcomed the very good progress made on this Project. The Council mandated the Permanent Bureau to continue preparations for a Fourth and final Special Commission Meeting in May 2018.
4. The Council asked the Permanent Bureau to make arrangements for the preparation of a Diplomatic Session in mid-2019, noting the role of the Netherlands Standing Government Committee on Private International Law in determining the dates of such a Session.
5. The Council mandated the Permanent Bureau to make arrangements for a further meeting of the Experts' Group addressing matters relating to direct jurisdiction (including exorbitant grounds and *lis pendens* / declining jurisdiction), to be held shortly after the conclusion of the Diplomatic Session.

Parentage / Surrogacy

6. The Council welcomed the Report of the Experts' Group on this Project and its recommendations, including holding:
 - a. a fourth meeting in September / October 2018 focusing on:

¹ These included the following Members of the Hague Conference on Private International Law: Albania, Andorra, Argentina, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, People's Republic of China, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, European Union, Finland, France, Georgia, Germany, Greece, Hungary, India, Ireland, Israel, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Mexico, Monaco, Morocco, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela and Viet Nam; and the following Observer: Dominican Republic; and representatives for Intergovernmental Organisations: Cooperation Council for the Arab States of the Gulf (GCC), International Institute for the Unification of Private Law (UNIDROIT), *Organisation pour l'Harmonisation en Afrique du Droit des Affaires* (OHADA), United Nations Commission on International Trade Law (UNCITRAL); and representatives for non-Governmental Organisations: American Association of Private International Law, International Association of Consumer Law (IACL), International Association of Judges (IAJ), International Bar Association (IBA), International Law Association (ILA), International Union of Judicial Officers, International Union of Notaries and P.R.I.M.E. Finance Foundation.

- deepening the discussion regarding uniform applicable law rules on parentage, including how such rules might operate together with public documents which record legal parentage;
 - further analysing the possibility of recognising or accepting foreign public documents which record legal parentage; and
 - refining possible provisions regarding the recognition of foreign judicial decisions.
- b. a fifth meeting in February 2019 focusing specifically on international surrogacy arrangements (ISAs), which would consider the feasibility of the possible application of future agreed general private international law rules on legal parentage to ISAs and the possible need for additional rules and safeguards in these cases, including the possibility of a Protocol for ISAs cases.
7. The Experts' Group will report to Council at its 2019 Meeting.

Tourists and Visitors Project

8. The Council noted the Report on desirability and feasibility prepared by the Consultant, Mr Guinchard, and welcomed his additional oral explanations.
9. The Council invited Members to provide the Permanent Bureau with comments and a list of additional issues to be addressed in the finalised Report by 31 May 2018. The Council mandated the Permanent Bureau to make preparations for the establishment of a representative Experts' Group reflecting the range of views expressed on the topic for the purpose of analysing and finalising the Report. Nominations for participation in the Experts' Group should be provided in time for the Permanent Bureau to settle the composition of the Experts' Group by 31 May 2018.
10. Based on this additional information provided by Members, the Consultant will revise the Report for consideration at a meeting of the Experts' Group in September / October 2018.
11. The finalised Report of the Consultant and the Experts' Group's Conclusions and Recommendations will be submitted to the Members before the end of 2018, for consideration by the Council at its 2019 Meeting.

Family agreements

12. The Council welcomed the *Draft Practical Guide to Family Agreements under the Hague Conventions*. It also endorsed the Chair of the Experts' Group's proposal to hold a fourth meeting of the Experts' Group with a view to finalising the Draft Practical Guide in light of the discussions that took place at the Seventh Meeting of the Special Commission on the practical operation of the 1980 / 1996 Hague Conventions pertaining to the issue of the shift of habitual residence following a non-return agreement.
13. The Experts' Group will meet in June 2018. The revised Draft Practical Guide will be circulated to Members for comments, and following this further consultation, the Experts' Group will provide its revised Draft Practical Guide to Council at its 2019 Meeting.

Civil protection orders

14. The Council decided to remove from the Agenda of the HCCH the topic of recognition and enforcement of foreign civil protection orders, with the understanding that this issue may be revisited at a later stage.

Co-operation with UNCITRAL, Unidroit and other international organisations

Joint project of the Secretariats of UNCITRAL, Unidroit and the HCCH for the development of a Guide to uniform legal instruments in the area of international commercial contracts (with a focus on sales)

15. The Council welcomed the progress made on developing the "Guide to Uniform Legal Instruments in the Area of International Commercial Contracts (with a Focus on Sales)"

and invited the Permanent Bureau to continue co-operation with UNCITRAL, Unidroit and the designated experts in further advancing this Project.

16. The Council endorsed the timeline to submit a draft Guide for approval at its meeting in 2020 and invited the Permanent Bureau to circulate the draft Guide to all Members for comments in 2019. The Permanent Bureau will report to Council at its 2019 Meeting.

Joint Project WIPO-HCCH Guide on “When Private International Law meets Intellectual Property Law – A Guide for Judges”

17. The Council welcomed the progress made on the Guide, “When Private International Law meets Intellectual Property Law – A Guide for Judges”, prepared by the co-authors. The Council directed the Permanent Bureau to complete a revised Guide and to circulate it to Members for comment as soon as possible. The Guide will be submitted to Council for approval at its 2019 Meeting.

Post-Convention activities

1980 Child Abduction and 1996 Child Protection Conventions

18. The Council approved the Conclusions & Recommendations adopted at the Seventh Meeting of the Special Commission on the practical operation of the 1980 / 1996 Conventions.
19. The Council mandated the Permanent Bureau to implement the Conclusions and Recommendations addressed to it. In doing so, the Permanent Bureau shall prioritise the following projects:
 - finalisation of the draft Guide to Good Practice on Article 13(1)(b) of the 1980 Convention;
 - finalisation of the revised form for return and access applications under the 1980 Convention;
 - finalisation of revisions to Preliminary Document No 7 of the Seventh Meeting of the Special Commission (“The application of the 1996 Hague Child Protection Convention to unaccompanied and separated children”); and
 - development of a Country Profile under the 1996 Convention.
20. The Council endorsed the proposal for the Experts’ Group on Article 13(1)(b) to meet in September 2018. The revised Draft Guide will be circulated to Members for comments, before being submitted to Council for approval at its 2019 Meeting.
21. In relation to Preliminary Document No 7 of the Seventh Meeting of the Special Commission, the Council recalled Conclusion & Recommendation No 34 of the Seventh Meeting of the Special Commission and stressed that, with a view to ensuring that Members are satisfied with the final document, a revised draft will be circulated to them for review. The Council requested that the document be finalised in a timely fashion.

“Malta Process” and related Working Party on Mediation

22. The Council noted recent developments concerning the “Malta Process” and welcomed the Report of the co-Chair of the Working Party on Mediation within the “Malta Process”.
23. The Council reiterated the Seventh Special Commission Meeting’s invitation to Members to nominate a central contact point.

INCADAT and INCASTAT

24. The Council welcomed the launch of INCADAT 2.0 during the Seventh Meeting of the Special Commission, and noted that Meeting’s invitation to Members to designate a national INCADAT correspondent.

25. The Council expressed its gratitude to the Government of Germany as well as to Miles & Stockbridge LLC for their generous contributions which made it possible to develop INCADAT 2.0.
26. The Council welcomed the work done in relation to INCASTAT and emphasised the importance of Members providing statistical data. The Council expressed its gratitude to the Government of Canada for its financial support to develop this database.

International Hague Network of Judges and Direct Judicial Communications

27. The Council welcomed the Permanent Bureau's update on the *International Hague Network of Judges and Direct Judicial Communications*.

2007 Child Support Convention (incl. iSupport) and its Protocol

28. The Council welcomed the proposal submitted by Switzerland to establish an Experts' Group regarding the international transfer of maintenance funds. As a first step, the Council mandated the Permanent Bureau, subject to available resources, to update existing research, including information on such transfers. The Permanent Bureau will report its findings to Council at its 2019 Meeting.
29. The Council welcomed the Permanent Bureau's update on iSupport.

1993 Intercountry Adoption Convention

30. The Council welcomed and approved the Note on habitual residence and the scope of the 1993 Hague Convention.
31. The Council supported the continuation of further work for the Working Group on Preventing and Addressing Illicit Practices in intercountry adoption as approved by Council in 2017, and if needed convene an in-person meeting.
32. The Council approved the commencement of preliminary discussions regarding possible topics for a next Meeting of the Special Commission on the practical operation of the 1993 Intercountry Adoption Convention, with the understanding that due to limited resources and other competing priorities, this Meeting may have to be delayed until 2021.
33. The Council noted the importance of technical assistance in relation to the implementation of this Convention and the need to secure funding to continue the Intercountry Adoption Technical Assistance Programme ("ICATAP").

2000 Adults Convention

34. The Council welcomed the Permanent Bureau's update on the 2000 Adults Convention.

1961 Apostille Convention

35. The Council approved the Conclusions & Recommendations adopted by the Working Group on the authentication of documents generated by supra-national and intergovernmental organisations at its meeting in December 2017.

1970 Evidence Convention

36. The Council noted the Permanent Bureau's update on the 1970 Evidence Convention.

2005 Choice of Court Convention

37. The Council noted the Permanent Bureau's update on the 2005 Choice of Court Convention.

2015 Hague Principles

38. The Council noted the Permanent Bureau's update on the 2015 Hague Principles.

2006 Securities Convention

39. The Council noted the Permanent Bureau's update on the 2006 Securities Convention.

Report on post-Convention assistance activities (1 January – 31 December 2017)

40. The Council welcomed the achievements of the Permanent Bureau in the area of education, training, and post-Convention assistance in relation to Hague Conventions.

Report of Regional Offices

41. The Council welcomed the Reports of the Regional Offices and recognised the excellent services they have provided for the HCCH.
42. The Council welcomed Mr Frank Poon as the new Representative of the Regional Office for Asia and the Pacific.

Governance of the Organisation

Review of the Secretary General's performance

43. The Council noted the Report on the Review of the Performance of the Secretary General prepared by the Review Committee and, based on its conclusion of satisfactory performance, mandated the Chair of the Council to advise the Netherlands Standing Government Committee on Private International Law that it recommends the reappointment of the Secretary General for a further term of five years. In doing so, the Council urged the Secretary General to implement, as a matter of priority, the matters identified in the Report. The Council also requested the Chair of the Council to submit to the Council at its 2020 Meeting a proposal for conducting a mid-term review of the Secretary General's performance, with a particular focus on how the Secretary General has implemented the matters identified in the Report. The Council requested the Secretary General to report to the Council on an annual basis on initiatives and actions to improve further the operation of the Permanent Bureau.

Proposal for establishing a Working Group to consider the future procedure for appointing Secretaries General of the HCCH

44. The Council decided to establish an open-ended Working Group, under guidance of the Chair of the Council, to consider the future procedure for choosing Secretaries General of the HCCH; the term of their appointment; and the process for review of performance. The Council requested the appointment of a Vice-Chair of the Working Group, preferably based in The Hague.
45. Members wishing to participate in the Working Group may inform the Permanent Bureau by 1 April 2018 of their interest and designate a contact person. The Council called on Members to provide the Working Group with written comments in relation to the issues to be considered by the Working Group by 30 June 2018.
46. The Council encouraged the Working Group to be transparent and to use flexible and efficient means to conduct its work, but did not exclude the possibility of in-person meetings on the basis that they do not incur additional costs to the Permanent Bureau. The Council requested that the Working Group should keep the Working Group on the Rules of Procedure of the HCCH informed of its work. The Council also requested that Members of the HCCH be given the opportunity to contribute to any of the Working Group's Conclusions & Recommendations.
47. The Council instructed the Permanent Bureau to prepare, by 30 May 2018, a paper on relevant practices of other international organisations, and on previous practices of the HCCH, with respect to the selection, appointment and performance review of their head of the organisation.
48. The Working Group will report back to Council at its 2019 Meeting.

Update on new Strategic Plan and the framework for Regional Presence

49. The Council mandated the Permanent Bureau to facilitate the ongoing work of the informal group considering the Policy on the Framework for Regional Presence with a view to it being completed and presented to Council for approval at its 2019 Meeting.

Management efficiency initiatives

50. The Council noted Preliminary Document No 16, and agreed that, due to a lack of time, the balance of the work within the Organisation should be discussed at a later stage.
51. The Council took note of the Permanent Bureau's efforts in improving its information technology and information management regime.

Proposed Policy on observers and proposal for the development of new Rules of Procedure

52. The Council endorsed the establishment of an open-ended Working Group to undertake a comprehensive review of the existing Rules of Procedure, encouraging those who will participate to keep their participation constant. Members wishing to participate in the Working Group may inform the Permanent Bureau by 1 May 2018 of their interest and designate a contact person.
53. The Council provided the Working Group with a broad mandate to consider a wide range of issues relevant to the Rules of Procedure, including their application across various bodies of the HCCH; the Observer Policy and exceptional decision-making by distance; establishment of Working and Experts' Groups, including a glossary of HCCH terminology, as well the increased use of modern means of communication. The Working Group will have regard to existing rules and procedures of the Organisation. The Working Group will submit the Draft Rules to the Council at its 2020 Meeting.

Proceedings of the HCCH: Update and proposals

54. The Council agreed that the Permanent Bureau upload progressively, and subject to other priorities, all the *Proceedings* of past Diplomatic Sessions of the HCCH to the web, and make these available to the public free of charge as searchable electronic publications.

125th Anniversary of the HCCH (12 September 2018)

55. The Council noted the arrangements for the celebration of the 125th Anniversary of the HCCH on 12 September 2018.

Informal brainstorming (10-11 September 2018)

56. The Council noted the proposal to hold an informal brainstorming on 10 and 11 September 2018, and thanked the Government of the Netherlands and the Municipality of The Hague for their support in celebrating this important milestone of the Organisation.

Financial matters

57. The Council noted the Secretary General's update concerning the Draft Budget and Explanatory Notes for the Financial Year 2018-2019.
58. The Council noted the Permanent Bureau's update in relation to the Voluntary Contributions received during 2017, and expressed its gratitude to the donors.