

**Fifth Meeting of the Working
Group on Choice of Law in
International Contracts
(27-28 January 2014)**



Report

From 27 to 28 January 2014, the **Working Group on Choice of Law in International Contracts** ("Working Group"), chaired by Daniel Girsberger, met at the Permanent Bureau of the Hague Conference on Private International Law ("HCCH") for the fifth time. Guided by the mandate given by the Council on General Affairs and Policy of the Conference¹ ("Council") and the recommendations for the commentary outlined by the Special Commission,² the participating experts continued and completed their discussions of the wording of the Commentary accompanying the Draft Hague Principles ("draft Commentary").

Comments on the draft Commentary provided by Argentina, Canada, the European Union and the United States of America informed the Working Group's discussions. The Working Group also considered the comments provided by Professor Peter Winship, Professor at SMU School of Law, Dallas, Texas.

An Editorial Committee was established within the Working Group, comprising the Chair, Geneviève Saumier, Neil Cohen, and Symeon Symeonides, with the assistance of the Permanent Bureau. The Editorial Committee is charged with finalising the text of the draft Commentary.

Within the remit of the Council's 2013 mandate, the Working Group suggested several editorial changes to the letter of Articles 3, 6, 10 and 11 of the Draft Principles (fine-tuning), reflecting the text of the draft Commentary as it evolved during the discussions. The Working Group also suggested naming the instrument the "Hague Principles on Choice of Law in International **Commercial** Contracts" in line with the substantive scope of the future instrument.

The Working Group considered the possible benefits of targeted educational and promotional activities about the future instrument to practitioners, law makers and academics and recommended undertaking such activities.

¹ At its 2013 meeting, the Council "welcomed the work carried out by the Working Group and further developed by the Special Commission held in November 2012 and gave its preliminary endorsement of the Draft Hague Principles on Choice of Law in International Contracts. The Council mandated the Working Group to prepare a draft Commentary, circulate it to all Members and Observers for comments, finalise the draft Commentary in light of these comments and present a complete draft of the Commentary, together with the Principles, to Council. The Council would then be invited to either give its final endorsement of the complete package of the Principles and the Commentary, or if necessary submit the package to the Special Commission". See Conclusions and Recommendations adopted by the Council on General Affairs and Policy of the Conference, available at < www.hcch.net >.

² See the "Draft Hague Principles on Choice of Law in International Contracts" as approved by the November 2012 Special Commission on Choice of Law in International Contracts, available at < www.hcch.net >.

The Working Group's discussions drew to a successful close on the final day. As to future work, the Working Group agreed on the following tentative timeline:

- **by early February 2014:** the Permanent Bureau will consolidate a revised version of the draft Commentary and distribute it to the Editorial Committee;
- **by mid-February 2014:** the Editorial Committee will analyse, discuss and edit the revised version of the draft Commentary based on the agreed upon stylistic guidelines; and
- **at the end of February 2014:** the Permanent Bureau will assess progress and, should the complete package consisting of the revised version of the Principles and the draft Commentary be available in English and French (the two official languages of the HCCH), circulate that package to Members for consideration prior to the Council meeting in April 2014.

Depending on progress made with the above tentative timeline, arrangements may have to be made for an in-person meeting of the Editorial Committee in order to complete its editorial work.