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HCCH
HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ

AFRICA STRATEGY

drawn up by the Permanent Bureau

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STRATÉGIE AFRIQUE

établi par le Bureau Permanent

Preliminary Document No 6 of March 2015 for the attention of the Council of March 2015 on General Affairs and Policy of the Conference

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Introduction

1. This document sets out the *Africa Strategy* (the "Strategy") of the Hague Conference on Private International Law (the "HCCH"). Building upon the 2002 Strategic Plan of the Hague Conference (the "Strategic Plan"[1]), and furthering the Secretary General's vision for the HCCH's future, the Strategy seeks to advance the Organisation's global orientation, promoting its universality in a heterogeneous global context. To aid the growth of the Organisation's universality, the Strategy provides a transparent and accountable framework that establishes clearly defined goals. It also seeks to provide a general basis for the future allocation of appropriate resources towards achieving these goals. The Strategy is submitted to the Council on General Affairs and Policy (the "Council") for approval.

Purpose of the Strategy

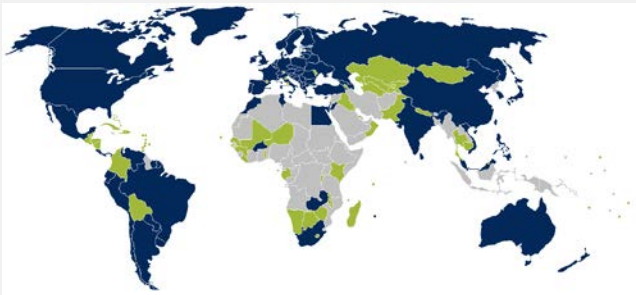
2. The HCCH strives for universality, that is, towards becoming a truly global organisation. This goal is of significant practical importance to the HCCH. Its successful pursuit strengthens the Organisation and firmly establishes the HCCH as the leading private international law organisation that responds to global needs. With increased universality, the HCCH's instruments increasingly equate to "world laws".[2] Aware of this practical importance, the pursuit of universality finds its strategic manifestation in the Strategic Plan, as adopted by the Council in April 2002. Strategic Direction 1 of the Strategic Plan aims to increase "the global coverage of the Conference" by:

- "enlarging its Membership and the number of States Parties to Hague Conventions";[3]
- increasing "the global coverage of Membership";[4] and
- establishing "physical or representative presence [...] in [the] regions".[5]

3. Currently, Africa is the continent least connected to the HCCH. Out of the 54 recognised African States that form the "Africa Group" of Members of the United Nations General Assembly, only:[6]

- Seven are Member States of the HCCH,[7] and
- 20 more States, while not a Member, are party to one or more Hague Conventions (Connected States).[8]

Map 1: Member States



Map 2: Connected States

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[1] See "The Hague Conference on Private International Law Strategic Plan", drawn up by the Permanent Bureau, April 2002, available on the Hague Conference website at < www.hcch.net > under "About HCCH" and "Strategic Plan".

[2] H. G. Schermers, *International Institutional Law*, Vol 1, p. 16, quoted in E. Osieke, *Constitutional Law and Practice in the International Labour Organisation*, 1985, Martinus Nijhoff Publishers, Dordrecht, p. 50.

[3] See note 1, *supra*, Item 4.1.1.1, p. 30.

[4] *Ibid*.

[5] *Ibid*., p. 31.

[6] Note that the boundaries shown on the maps used in this Introduction are based upon those used by the United Nations Cartographic Section. They are indicative only and should not be taken to imply official endorsement or acceptance by either the Hague Conference or the United Nations.

[7] The HCCH's Member States in Africa are: Egypt (April 1961); Morocco (September 1993); South Africa (February 2002); Mauritius (January 2011); Burkina Faso (May 2013); Zambia (May 2013); and Tunisia (November 2014). See Map 1.

[8] The HCCH's non-Member Contracting States in Africa are: Botswana; Burundi; Cape Verde; Gabon; Guinea; Kenya; Lesotho; Liberia; Madagascar; Malawi; Mali; Namibia; Niger; Rwanda; Sao Tome and Principe; Senegal; Seychelles; Swaziland; Togo; and Zimbabwe. See Map 2. The Annex shows which Hague Conventions have been signed, ratified or acceded to by African Member States and African non-Member Contracting States.

4. This comparably low connectedness of the African continent presents a significant gap in the HCCH pursuit of universality.[9] The Strategy aims to close that gap – a core priority identified by the then incoming Secretary General when he outlined his vision for the HCCH's future to the 2013 Council.

The Strategy: *goals, partners and deliverables*

5. By establishing a transparent and accountable framework within which the Organisation can grow its visibility, relevance and capabilities across Africa, the Strategy imbeds a coherent and structured approach towards Africa into the HCCH's overall work programme and priorities.[10] It also provides a tool to match resources and demands by making decision processes more transparent and informed and by increasing the HCCH's capacity to seek additional funding.[11]

Goals

6. The high-level goals of the Strategy are for the Organisation to:

- raise awareness of the work of the HCCH among African States;
- encourage African States to participate more actively in the work of the HCCH, ensuring that the diverse African views, cultures and legal traditions will better inform the future work of the HCCH;
- develop among African States a better understanding of the HCCH's relevance to them;
- reach co-operation agreements with some of Africa's (regional) organisations, including the African Union, ECOWAS, EAC, CEEAC, SADC and UMA, aimed at assisting with promoting regional integration;
- increase its capacity with respect to Africa, including by strengthening the Permanent Bureau's internship programme with candidates from African States;
- increase the rate of ratification of / accession to relevant Hague instruments, in particular the "core" Hague Conventions (*i.e.*, Conventions, Protocols and Principles which already are, or are likely to be, widely ratified / acceded to or are adopted);
- grow the number of Members on the African continent; and
- establish a regional presence of the Permanent Bureau on the African continent.[12]

The core Hague instruments include the:

- Apostille Convention;
- Service Convention;
- Evidence Convention;
- Access to Justice Convention;
- Choice of Court Convention;
- Hague Principles on Choice of Law in International Commercial Contracts;
- Trust Convention;
- Securities Convention;
- Child Abduction Convention;
- Child Protection Convention;
- Intercountry Adoption Convention; and
- Child Support Convention and Protocol.

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[9] Cognisant of this gap, the then new Secretary General deliberately chose Africa for his first official Mission, attending in October 2013 the "*3es rencontres Afrique - Europe des huissiers de justice*". This regional seminar was organised by the UIHJ and attended by approximately 300 participants. Key speakers included representatives from the World Bank, UNCITRAL, OHADA, the *Association Henri Capitant* and the Hague Conference. The Secretary General provided an overview of the Hague Conference and introduced the "core" Hague Conventions to participants.

[10] Broadly, the HCCH's work programme consists of (1) developing and promoting international law Conventions (and other instruments), most of which have a human rights and / or trade and investment facilitating effect, and (2) the provision of technical (or post-Convention) assistance which ensures the Conventions' proper implementation and sound practical operation. Promotion of the Hague Conventions and related services offered by the Permanent Bureau are a key part of the current working model of the HCCH (see note 1, *supra*, Item 2.2.4., p. 14; opening paragraph to the "[Draft] Strategic Framework for Post-Convention Assistance" (Prel. Doc. No 11 of January 2015 for the attention of the Council of March 2015 on General Affairs and Policy of the Conference, available on the Hague Conference website at < www.hcch.net > under "Work in Progress" and "General Affairs") which states: "[o]ne of the roles of the Hague Conference on Private International Law is to provide support in the form of post-Convention assistance for the benefit of Member States and Contracting States to Hague Conventions (or those considering Membership and / or ratification of and accession to Hague Conventions), their government officials, judiciary and practitioners. Post-Convention assistance from the Hague Conference is typically provided through the Permanent Bureau, including its regional offices, but may also involve other entities, including officials from other States or organisations and independent experts.").

[11] This is in line with Strategic Direction 6 of the Strategic Plan (see note 1, *supra*).

[12] The Strategic Plan already suggested to "[e]xplore the possibility to establish some form of physical presence for the Conference in other regions" (see note 1, *supra*, Item 4.1.1.1, p. 31).

7. Regional Offices of the Permanent Bureau have already become an invaluable part of the global infrastructure of the HCCH, furthering the Organisation's pursuit of universality. The two existing Regional Offices — in Buenos Aires (established in 2005) and in Hong Kong SAR (established in 2012) — have proven to be a highly effective tool to increase the HCCH's visibility, relevance and capabilities within their respective regions. They also demonstrate their value by increasing the effectiveness and efficiency of the delivery of services and assistance. Similar results can be expected from a regional presence in Africa.

8. Finally, the Strategy may enable the Permanent Bureau to attract additional funding (either as financial or as in-kind contributions) for delivering its services and assistance in Africa. It is aware that potential donors may be more inclined to provide funding if, and when, the relevant event forms part of an overall strategy developed by the Organisation.[13]

Partners

9. The Permanent Bureau cannot deliver the Strategy alone. Rather, the effective implementation of the Strategy is based on the co-ordinated co-operation between the Permanent Bureau, contributing its significant skills and expertise, including in delivering outcomes within the region,[14] and key actors including:

- *Existing Hague Conference Members and non-Member Contracting States* — both in Africa and elsewhere;[15]
- *Regional and global public and private partners* — for example, the African Union, OHADA, the Regional Economic Communities (REC),[16] and the UMA; and
- *Other organisations with a high visibility in Africa* — for example UNICEF, *la Francophonie*, UIHJ, IRZ and GIZ.

Deliverables

10. The Strategy comprises three phases, aimed at producing short-, medium- and long-term deliverables. These phases are:

Building a platform: short-term deliverables ***(Years 1 and 2)***	
Approve	The Council approves the principle, purpose, content and overall structure of the Strategy.
Develop	The Permanent Bureau develops a matrix for selecting certain priority States (priority matrix), based on strategic indicators that align with the HCCH programme priorities, including a country's existing relationship with the HCCH, its political stability, economic outlook, location, demographics and migration patterns.
Establish and / or deepen	The Permanent Bureau establishes and / or further develops contacts with key partners, including:

[13] The Permanent Bureau is aware of the need to attract additional funding to give full effect to the Strategy. A fundraising strategy that takes account of the specific needs of partners, and the different benefits and beneficiaries of the HCCH instruments, may be developed in due course.

[14] Past examples of successful co-operation include seminars / events held in Morocco and Tunisia in October 2014 and in October 2013 respectively (organised in co-operation with the German Foundation for International Legal Cooperation (IRZ)); in South Africa in September 2014 (co-hosted with the University of Johannesburg); in Togo in October 2013 (organised by the UIHJ); in Senegal in November 2012 (organised by the Hague Conference, and supported by UNICEF); in Kenya in 2011 (organised in co-operation with the EAC and TradeMark East Africa); and in Morocco in 2010 (organised in co-operation with TAIEX, the Technical Assistance and Information Exchange instrument managed by the Directorate-General Neighbourhood and Enlargement negotiations of the European Commission).

[15] It may be noted that in 2001 – 2002, the Minister of Foreign Affairs of the Netherlands wrote to several States, encouraging them to become Members. A similar approach could also prove productive as part of the Strategy [*Building a platform: short-term deliverables* ***(Years 1 and 2)***].

[16] The eight recognised Regional Economic Communities in Africa are the *Arab Maghreb Union* (UMA), *Common Market for Eastern and Southern Africa* (COMESA), *Community of Sahel-Saharan States* (CEN-SAD), *East African Community* (EAC), *Economic Community of Central African States* (ECCAS), *Economic Community of West African States* (ECOWAS), *Intergovernmental Authority on Development* (IGAD) and the *Southern African Development Community* (SADC).

	• Governments of existing African Member States;[17] • Governments of selected priority States in Africa; • Organisations with which the HCCH already has a co-operation agreement (African Development Bank, OHADA); • other Intergovernmental African organisations (African Union); • Regional Economic Communities (REC); • other relevant partners (World Bank Group, UNICEF, *la Francophonie*, UNECA, IRZ, GIZ, UIHJ), including for the purpose of entering into co-operation agreements; and • the private sector and other donors already active in Africa.
Promote	Using a range of approaches, the Permanent Bureau, with the support of, and in co-operation with, key partners, promotes the HCCH in Africa, including by: • introducing the Hague Conference to African States; • explaining the Strategy; and • encouraging African States to become Members.
Organise	The Permanent Bureau, in co-operation with key partners, organises: • two to four smaller promotional and / or technical assistance events in priority States; and • the first regional Africa Conference on the work of the HCCH (modelled on the Asia Pacific Regional Conferences), to demonstrate HCCH capabilities and introduce / explain / promote the Strategy.
Consolidation and amplification: medium-term deliverables ***(Years 3 to 5)***	
Develop	The Permanent Bureau develops priority countries further as amplifiers for the HCCH's further expansion across the continent.
Organise	Together with appropriate partners, the Permanent Bureau organises further Regional Conferences in different regions, with the selection of venues based on the prioritisation of countries.
Establish	The Permanent Bureau establishes HCCH Pilot Committees (by priority country), led by a local HCCH Pilot who reports on promotional and implementation efforts and overall progress of the Strategy.[18]
Review	Relevant stakeholders review periodically the Strategy, ensuring continued consensual support, and, if necessary, the re-alignment of the strategy with HCCH programme priorities.
Explore	The Permanent Bureau explores options for the possible establishment of a (first) Regional Office in Africa.
Transition	The Strategy evolves into a new strategy for Africa, "Africa 2020+", building on the achievements under the Strategy and anticipating the establishment of a (first) Regional Office.
"Africa 2020+": possible long-term deliverables ***(Years 5+)***	
Establish	A (first) Regional Office in Africa.
Expand	Further the reach of the HCCH in Africa, using the (first) Regional Office and applying the Strategy "Africa 2020+".

[17] Except for Central Africa, there is at least one HCCH Member State per UN sub-region. These existing African Member States will be encouraged to take the lead in their respective region.

[18] HCCH Pilot Committees and HCCH Pilots would be a new concept. Under the leadership of a local expert (the "HCCH Pilot"), a committee comprising further local experts is convoked (the "HCCH Pilot Committee"). The HCCH Pilot Committee would assist with the implementation of the Strategy, including through the identification of domestic needs and appropriate solutions Hague Conventions can offer; and on-the-ground promotional work and liaison with the profession, government, private practice and other key stakeholders. The HCCH Pilot Committees may also serve as a platform to identify local experts who can join various HCCH Working and Experts' Groups or, if they are members of the local judiciary, to propose their possible appointment as a member of the International Hague Network of Judges. HCCH Pilots and HCCH Pilot Committees could also supply potential candidates for the role of Representative of the HCCH in a future Regional Office.

A N N E X / A N N E X E

Status of Hague Conventions in Africa

... by State

Member States	Member State since	Conventions
Burkina Faso	May 2013	• Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption • Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (signed)
Egypt	April 1961	• Convention of 1 March 1954 on civil procedure • Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters • Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations • Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages (signed)
Mauritius	January 2011	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption • Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary
Morocco	September 1993	• Convention of 1 March 1954 on civil procedure • Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters • Convention of 4 May 1971 on the Law Applicable to Traffic Accidents • Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters • Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • 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 • Convention of 25 October 1980 on International Access to Justice (signed)
South Africa	February 2002	• Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions • Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents

		• Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters • Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Tunisia	November 2014	
Zambia	May 2013	• Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

Non-Member Contracting States	Connected since	Conventions
Botswana	September 1968	• Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions • Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
Burundi	October 1998	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Cape Verde	May 2009	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Gabon	December 2010	• Convention of 25 October 1980 on the Civil Aspects of International Child Abduction
Guinea	October 2003	• Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Kenya	February 2007	• Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Lesotho	April 1972	• Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions • Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption • 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

Liberia	May 1995	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Document
Madagascar	May 2004	• Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Malawi	February 1967	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
Mali	May 2006	• Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Namibia	April 2000	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
Niger	October 1971	• Convention of 15 June 1955 on the law applicable to international sales of goods
Rwanda	March 2012	• Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Sao Tome and Principe	December 2007	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
Senegal	August 2011	• Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Seychelles	June 1978	• Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters • Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters • Convention of 25 October 1980 on the Civil Aspects of International Child Abduction • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Swaziland	September 1970	• Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions • Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents • Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Togo	October 2009	• Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
Zimbabwe	April 1995	• Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

... by Hague Convention

Conventions	Member States	Non-Member Contracting States	Total
1. Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption	1. Burkina Faso 2. Mauritius 3. South Africa	1. Burundi 2. Cape Verde 3. Guinea 4. Kenya 5. Lesotho 6. Madagascar 7. Mali 8. Rwanda 9. Senegal 10. Seychelles 11. Swaziland 12. Togo	15
2. Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents	1. Mauritius 2. South Africa	1. Botswana 2. Burundi 3. Cape Verde 4. Lesotho 5. Malawi 6. Namibia 7. Sao Tome and Principe 8. Seychelles 9. Swaziland	11
3. Convention of 25 October 1980 on the Civil Aspects of International Child Abduction	1. Burkina Faso 2. Mauritius 3. Morocco 4. South Africa 5. Zambia	1. Gabon 2. Guinea 3. Lesotho 4. Seychelles 5. Zimbabwe	10
4. Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters	1. Egypt 2. Morocco	1. Botswana 2. Malawi 3. Seychelles	5
5. Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions	South Africa	1. Botswana 2. Lesotho 3. Swaziland	4
6. Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters	1. Morocco 2. South Africa	Seychelles	3
7. 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	Morocco	Lesotho	2
8. Convention of 1 March 1954 on civil procedure	1. Egypt 2. Morocco		2
9. Convention of 25 October 1980 on International Access to Justice (signed)	Morocco		1

10. Convention of 15 June 1955 on the law applicable to international sales of goods	Niger		1
11. Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary	Mauritius		1
12. Convention of 4 May 1971 on the Law Applicable to Traffic Accidents	Morocco		1
13. Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages (signed)	Egypt		1
14. Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations	Egypt		1
15. Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (signed)	Burkina Faso		1