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DE DROIT INTERNATIONAL PRIVÉ

LISTE DE TÂCHES ET ÉTAT DE MISE EN ŒUVRE DES CONCLUSIONS ET RECOMMANDATIONS ADOPTÉES PAR LA COMMISSION SPÉCIALE SUR LE FONCTIONNEMENT PRATIQUE DES CONVENTIONS DE LA HAYE APOSTILLE, NOTIFICATION, OBTENTION DES PREUVES ET ACCÈS A LA JUSTICE (2–12 FÉVRIER 2009)

établi par le Bureau Permanent

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TASK LIST AND STATUS OF IMPLEMENTATION OF CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE SPECIAL COMMISSION ON THE PRACTICAL OPERATION OF THE HAGUE APOSTILLE, SERVICE, TAKING OF EVIDENCE AND ACCESS TO JUSTICE CONVENTIONS (2–12 FEBRUARY 2009)

drawn up by the Permanent Bureau

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EXPLANATION

Part I of the following chart reflects the most important Conclusions and Recommendations (C&R) that require specific action on the part of the Permanent Bureau (PB), and the general status of their implementation. Unless otherwise indicated, the C&R are implemented within the constraints of current resources. The chart only reflects work resulting from the Special Commission of February 2009 (SC 09) – it does not reflect any of the other work conducted by members of the PB with responsibility for judicial / administrative co-operation matters (*e.g.*, other work relating to judicial and administrative co-operation, finance law, commercial law, litigation or general administration matters).

Part II of the chart reflects the most important C&R that require specific action on the part of the Contracting States.[1]

Part I: Conclusions and Recommendations requiring specific action on the part of the Permanent Bureau

C&R	Description	Conv	Status / resources
Handbooks / Guides / Brochures / Guidelines			
99	Complete a Practical Handbook (HB) on the operation of the Apostille Convention	A	• In progress • Involves both internal and external resources (Bill Fritzlen, Attorney Adviser at the Department of State, USA, on part-time secondment (see Supplementary Budget 2010-2011, Part I, Art. 19))
99	*ABCs of Apostilles* (spin-off of work on HB – brochure for general audience)	A	• Brochure completed in English and French, published in both paper and electronic form • To be sent to National Organs and / or Competent Authorities • Spanish translation of Brochure ready – however, publication subject to additional resources (see Supplementary Budget 2010-2011, Part I, Art. 20 a)

[1] To enable completion of all the tasks listed in Part I and organise the follow-up to activities relating to Part II, a second Legal Officer is required to undertake research, draft documents, respond to requests and progress projects. A position for this Legal Officer is currently on the Supplementary Budget (see Part I, Art. 18) and funding is needed to ensure the continuity of this position.

58	Create a new edition of Practical Handbook on the Operation of the Evidence Convention	E	• Work currently on hold – completion of this project is subject to additional resources (see Supplementary Budget 2010-2011, Part I, Art. 20 f)
41	Prepare revised (updated) edition of Service Handbook	S	• Relevant developments are being monitored • Drafting of new edition has not started yet (awaiting translations into other languages to be completed and published) • Spanish translation of current (third) edition ready – however, publication subject to additional resources (see Supplementary Budget 2010-2011, Part I, Art. 20 b)
30	Prepare guidelines for the completion of the Model Form	S	• No action taken yet – lack of resources (next priority after Practical HB Apostille)
58	Follow and study impact of modern technologies (in particular video-links) on Evidence Convention – develop Guide to Good Practice on use of video-link to assist in taking of evidence abroad under the Convention	E	• Preliminary work had started but project is currently on hold (Legal Officer has resigned – recruitment ongoing) – work will be resumed as soon as possible
39	Follow and study impact of modern technologies on Service Convention (in particular electronic transmission and electronic execution of requests for service presented under the Convention)	S	• Contact with UIHJ has been established – future co-operation in this matter very likely
40	Study issue of compelling persons under threat of sanctions to provide evidence in Requesting State by use of a request for service transmitted under the Convention	S	• No action taken yet (lack of resources)

15	Study on extrajudicial documents	S	• Monitoring of recent developments ongoing (in particular within EU, including decision by the ECJ re *Roda Golf*, 25 June 2009)
Forms			
29	Develop multilingual PDF versions of Model Form to support its mandatory use	S	• PB has received Spanish, Czech, Polish, Portuguese, Slovak and Turkish versions of the Form – preparation of trilingual forms ongoing • Need to improve trilingual forms in Russian and Ukrainian already available online - ongoing • Final Forms to be made available in both PDF and Word (if possible)
54	Develop multilingual PDF versions of Model Form to support its use	E	• In progress • Final Forms to be made available in both PDF and Word (if possible)
89	Develop a bilingual model (French / English) and several multilingual models of the Apostille Certificate	A	• Bilingual model in the process of being formatted
Electronic Apostille Pilot Program (e-APP)			
97	Further develop and promote the e-APP	A	• Substantial funding application submitted to the European Commission (October 2009), Directorate-General Justice, Freedom and Security – answer pending • New Zealand, Georgia, Andorra, Mexico have joined e-APP since SC 09 Information, support and assistance provided to a growing number of States (*e.g.*, Georgia, Mexico, Spain (Murcia), USA etc.) (see Supplementary Budget 2010-2011, Part I, Art. 21)

98	Consider questions of implementation of e-Apostille through exchange of technical and legal information	A	• Ongoing
Website			
58	Create "Evidence Section" on HCCH website	E	• Collection and organisation of relevant data to be presented in Evidence Section has started
99	Revamp Apostille Section (spin-off of work on HB and ABCs of Apostilles)	A	• Finalised
Miscellaneous			
84	Maintaining confidence in Apostilles – monitor use of Apostilles in relation to diplomas, including "diplomas" issued by diploma mills	A	• Ongoing (contacts with national authorities)
71	Create automated e-mail alerts informing Competent Authorities about new Contracting States	A	• Project discussed with relevant IT-company – implementation subject to available resources
71	Include information on previously designated Competent Authorities in the "Apostille Section"	A	• Ongoing (information included systematically)
11	Explore if Service Handbook can be made available online in parts or in its entirety	S	• No action taken yet (awaiting translations into other languages (traditional Chinese, simplified Chinese, Portuguese and possibly Spanish) to be published)

Part II: Conclusions and Recommendations requiring specific action on the part of Contracting States (communication to the Permanent Bureau)[2]

C&R	Task	Status
Service Convention		
8, 16, 27	Yearly update of relevant information, including about authorities, practices and developments for inclusion in relevant section of HCCH website	
Evidence Convention		
51	States which have made a general, non-particularised declaration under Article 23 are invited to revisit and amend their declaration	
57	Exchange with other States about experience on use of video-link and other modern technologies and communicate information to PB	
Access to Justice Convention		
64	Provide PB with Model Form in view of creating multilingual forms and to make them available online	
65	Feasibility study on the provision of enhanced legal assistance in particular categories of cases, such as small and / or uncontested claims	CGAP 2009[3]: "The Council decided not to include in the work programme of the Conference a feasibility study on the provision of enhanced legal assistance in particular categories of cases, such as small and / or uncontested claims (suggested in Conclusion and Recommendation No 65 of the February 2009 Special Commission on the Apostille, Service, Evidence and Access to Justice Conventions) and to reserve the topic for future consideration."
Apostille Convention		
67	Continue assessing relevance of objections to new accessions to the Convention	

[2] C&R which invite States to take specific actions but which do not necessarily require communication to the PB are not listed here (*e.g.*, promote relevant Conventions, promote uniform interpretation of relevant Conventions, use Model Forms, etc.) – for these other actions, reference is made to the relevant C&R of the SC 09.
[3] Council on General Affairs and Policy of the Hague Conference (31 March – 2 April 2009).

70, 78	Provide the PB with yearly updates of information relating to their State in order to make available online in the “Apostille Section”, including the competences of each Competent Authority	
79	Inform the PB about Apostille issuance procedure (in particular, one-step vs. multiple-step process, on the necessity of intermediate certifications)	
84	Maintaining confidence in Apostilles – monitor use of Apostilles in relation to diplomas, including “diplomas” issued by diploma mills	
85	Addition of a statement to Apostille Certificate indicating the limited effect of an Apostille	
89	Send a copy of Apostille Certificate to the PB for it to develop multilingual versions	
96	Consider implementation of the e-APP	