

Council on General Affairs and Policy of the Conference

(9-11 April 2013)



CONCLUSIONS AND RECOMMENDATIONS

ADOPTED BY THE COUNCIL

Governance of the Hague Conference

1. The Council extended its heartfelt and sincere gratitude to Secretary General Hans van Loon for his outstanding achievements and contributions to the work and the development of the Hague Conference. The Chair informed the Council that the procedure for the succession of the Secretary General had been successfully completed. The Council warmly welcomed the appointment of Deputy Secretary General Christophe Bernasconi as Secretary General as of 1 July 2013.
2. Upon the proposal of the Chair, the Council elected and warmly welcomed Ms Yolande Dwarika of South Africa as Vice-Chair of the Council.
3. The Council took note of a proposal to discuss the role of the Council in relation to the endorsement of Guides to Good Practice and Practical Handbooks and agreed to revisit the issue in 2014.

Review of activities of the Hague Conference

4. The Council welcomed the activities of the Hague Conference carried out by the Permanent Bureau since the last Council meeting (17-20 April 2012).

Ceremonies

5. The Council looked back with great satisfaction on the commemoration of the 120th anniversary of the Hague Conference that took place on 8 April 2013.
6. The Council witnessed:
 - a) the deposit of the instrument of acceptance of the Statute by the Vice-Minister of Justice of the Socialist Republic of Viet Nam, and warmly welcomed Viet Nam as the 73rd Member of the Hague Conference;
 - b) the deposit of the instrument of ratification by the Deputy Minister of Justice of Serbia of the *Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations*, and noted with satisfaction the upcoming entry into force of the Protocol; and
 - c) the deposit of the instrument of accession by the Ambassador of Colombia of the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*.

Current work

Choice of Law in International Contracts

7. 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.

Continuation of the Judgments Project

8. The Council took note of the reports of the Working Group and Experts' Group that met in February 2013, and the useful progress that was made in those discussions. Members of the Groups are continuing to consult on next steps, with a view to reconvening in October 2013. The Council looks forward to receiving an update on progress in this regard.

Recognition and enforcement of foreign civil protection orders

9. The Council welcomed the work carried out by the Permanent Bureau and invited it to continue exploratory work, including further comparative research (such as a country profile) and investigation on the feasibility of a future instrument. The Permanent Bureau may, resources allowing, convene an Experts' Group to assist in carrying out this work.

Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements

10. The Council welcomed the oral update on the work carried out by the Permanent Bureau, including on the preparations of the questionnaires that will be circulated shortly. As decided by Council in 2012, the Permanent Bureau is invited to present its final Report to Council in 2014.

Other topics

11. The Council invited the Permanent Bureau to continue to follow developments in the following areas:

- a) assessing the content of foreign law and the need for the development of a global instrument in this area;
- b) questions of private international law raised by the information society, including electronic commerce, e-justice and data protection; and
- c) jurisdiction, applicable law, and recognition and enforcement of judgments in respect of unmarried couples, with the Permanent Bureau being invited, resources allowing, to update its Report of 2008 on this topic.

12. The Council took note of the suggestion possibly to undertake work on co-operation in respect of protection of tourists and visitors abroad and decided to add this topic to the Agenda but that no work be undertaken by the Permanent Bureau at this stage.

13. The Council decided to delete from the Agenda of the Hague Conference the following topics:

- a) the application of certain private international law techniques to aspects of international migration;
- b) jurisdiction, and recognition and enforcement of decisions in matters of succession upon death; and
- c) conflict of laws issues relating to the enforceability of close-out netting provisions, taking into account in particular the work undertaken by other international organisations.

14. The Council took note of the suggestion possibly to undertake work on cross-border aspects relating to resolution and decided not to add this topic to the Agenda.

Direction of the work of the Hague Conference relating to technical assistance

15. The Council took note with appreciation of the work of the Technical Assistance Working Group as orally presented by the Chair of the Working Group (and outlined in Info. Doc. No 9). A final report including a draft strategic framework will be prepared and presented to Council in 2014. The Council reaffirmed that longer term funding issues must be discussed as a second step.

Post-Convention services and activities

16. The Council welcomed the successful outcome of the November 2012 Special Commission on the practical operation of the Apostille Convention and took note of the Conclusions and Recommendations of the Special Commission. The Council noted the endorsement of the Apostille Handbook by the Special Commission and welcomed the developments in the field of the electronic Apostille Program (e-APP).

17. The Council welcomed the preparatory work in relation to the next meeting of the Special Commission on the practical operation of the Service and Evidence Conventions, and decided to include the Access to Justice Convention on the agenda of the Special Commission meeting, which is tentatively scheduled for the first half of 2014.

18. In relation to the 1980 Child Abduction Convention, the Council welcomed the progress in the preparation for the Working Group to develop a Guide to Good Practice on the interpretation and application of Article 13(1) b) of the Convention, and invited the Permanent Bureau to convene two meetings of the Working Group and to report to Council in 2014.

19. The Council noted the progress made in preparation for the Experts' Group on cross-border recognition and enforcement of agreements reached in the course of international child disputes and invited the Permanent Bureau to convene a meeting of the Experts' Group and to report to Council in 2014.

20. In relation to the 1993 Intercountry Adoption Convention, the Council:

- a) welcomed the publication of Guide to Good Practice No 2 on *Accreditation and adoption accredited bodies*, the Information Brochure on this Convention, as well as the Discussion Paper on co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases;
- b) took note of the Conclusions and Recommendations of the Experts' Group on financial aspects of intercountry adoption and welcomed the ongoing work to finalise the Discussion Paper on this topic and the tables on costs and contributions associated with intercountry adoption;
- c) welcomed the preparatory work in relation to the next meeting of the Special Commission on the practical operation of this Convention, which is tentatively scheduled for the first half of 2015 at the latest; and
- d) noted the importance of technical assistance in relation to the implementation of this Convention and the need to secure funding to continue the position of the Adoption Technical Assistance Programme Co-ordinator.

21. The Council welcomed the recent developments in relation to electronic tools under the 2007 Child Support Convention and 1980 Child Abduction Convention and encouraged States to support the work in this area.

22. The Council welcomed the achievements of the Permanent Bureau in the areas of education, training and technical assistance in relation to the Hague Conventions.

Working Party on Mediation in the context of the Malta Process

23. The Council welcomed the Report of the Working Party on Mediation in the context of the Malta Process, as presented by the Co-Chairs, Justice Jillani of Pakistan and Mr Crosbie of Canada, as well as the direction for future work outlined by the Co-Chairs. The Council welcomed the increased engagement and activity by the members of the Working Party and agreed that the Working Party continue its work on the implementation of mediation structures and establishment of Central Contact Points, with the expectation of a further report on progress to the Council in 2014.

Regional activities of the Hague Conference

24. The Council welcomed the opening of the Asia Pacific Regional Office in Hong Kong SAR on 13 December 2012. The Council also welcomed reports provided by the Permanent Bureau, in particular of the Regional Offices for Latin America and the Asia Pacific, and strongly supported further activities in those and other regions.

Videoconferencing equipment

25. The Council welcomed with gratitude the generous contribution of Australia to fund the acquisition of videoconferencing equipment to facilitate global communication for the Permanent Bureau.