

Council on General Affairs and Policy of the Conference – March 2018

Document	Preliminary Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	No 19 of February 2018
Title	Proposed new Rules of Procedure	
Author	Permanent Bureau	
Agenda item	Item VI.5	
Mandate(s)	New mandate	
Objective	To seek a mandate to commence work to prepare new Rules of Procedure for Meetings of the Hague Conference on Private International Law.	
Action to be taken	For Approval <input type="checkbox"/> For Decision <input checked="" type="checkbox"/> For Information <input type="checkbox"/>	
Annexes	n.a.	
Related documents	The Rules of Procedure of the Hague Conference on Private International Law	

A. Introduction

1. This Preliminary Document seeks a mandate to commence work on developing new Rules of Procedure (Rules) for Meetings of the Hague Conference on Private International Law (HCCH). These Rules are a vital procedural document for the HCCH, as they apply to, and regulate the proceedings of, the meetings of the Diplomatic Session, the Council of Diplomatic Representatives, the Council on General Affairs and Policy, and the Special Commissions.

B. History

2. The Rules were first adopted 50 years ago during the Eleventh Session of the HCCH held in 1968. Adopted under the then title of “Rules of Procedure for Plenary Meetings”, they were devised following a request by Member States at the Tenth Session of the HCCH to solidify in writing a set of Rules governing the meetings of the Organisation.

3. The Rules have been amended on two occasions. In 2005, during the Twentieth Session, the Rules were amended to accommodate the entry of the European Union as Member of the HCCH. During the same Session, their title was shortened to “Rules of Procedure”.¹ In 2012, the Council on General Affairs and Policy amended the Rules to include Article 5A concerning Chairs and Vice-Chairs.²

C. The need for new Rules of Procedure for the HCCH

4. Since their adoption in 1968, the Rules have guided the Meetings of the HCCH, and practices that enliven, refine and optimise the application of the Rules have developed evolutionary and consensually. However, more recently, work on the Framework for voting by correspondence, including e-mail,³ the Observer Policy,⁴ and the Policy on the Framework for Regional Presence⁵ has indicated that the Rules are outdated, in parts unclear, and that they no longer support the needs of a modern, effective and nimble intergovernmental organisation.

5. Specifically, this work highlighted that the Organisation developed a number of practices and policies, including, if approved, the Observer Policy and Framework of voting by correspondence, including e-mail, which should be consolidated into a comprehensive and single set of Rules. In addition to making these practices and policies more accessible, their inclusion would also clarify their legal status as part of a new set of procedural rules.

6. Moreover, some existing provisions of the Rules need clarification of their intended practical operation. For example, Article 1 on Quorum would benefit from more precise language to resolve any confusion on its correct meaning. This has been pointed out by some of the participants of the Informal Working Group on the Framework for voting by correspondence, including e-mail.

7. Finally, comparative research between the existing Rules and those in use by other modern intergovernmental organisations may inspire the inclusion of appropriate modern procedural measures which could significantly benefit the HCCH and its Members, including by introducing new procedures aimed at promoting efficiency and effectiveness during meetings for the benefit of those participating and the Membership as a whole.

¹ Amended Arts 1, 1A, 2(2) and 4; see Twentieth Session of the Hague Conference on Private International Law, Tome I, Final Act, 30 June 2005, C 4.

² Amended by insertion of Art. 5A by the Council on General Affairs and Policy at its meeting of 17-20 April 2012 (*cf.* Nineteenth Session, Final Act, Tome I, 13 December 2002, under B 1 c)).

³ “Framework of voting by correspondence, including e-mail”, Prel. Doc. No 15, for the attention of the Council of March 2018 on General Affairs and Policy of the Conference.

⁴ “Policy on Observers at Meetings of the Hague Conference on Private International Law”, Prel. Doc. No 18 of February 2018 for the attention of the Council of March 2018 on General Affairs and Policy of the Conference.

⁵ “Policy on the Framework for Regional Presence”, Prel. Doc. No 14, for the attention of the Council of March 2018 on General Affairs and Policy of the Conference.

D. Conclusion

8. The Rules of Procedure need to be updated and amended to ensure that they will continue to provide and support effective and efficient processes for the HCCH. Members are asked to authorise the establishment of a representative Working Group to consider the existing Rules of Procedure with a view to revising and consolidating them.