

Title	Report on Previous Conclusions & Recommendations (C&Rs)
Document	Info. Doc. No 2 of August 2021
Author	PB
Agenda Item	Item 2.iii.
Mandate(s)	N/A
Objective	To provide an update on the status of actionable C&Rs from previous meetings of the Special Commission.
Action to be Taken	For Decision <input type="checkbox"/> For Approval <input type="checkbox"/> For Discussion <input type="checkbox"/> For Action / Completion <input type="checkbox"/> For Information <input checked="" type="checkbox"/>
Annexes	Annex I: List of Actionable C&Rs
Related Documents	C&Rs of the 2003 SC C&Rs of the 2009 SC C&Rs of the 2012 SC C&Rs of the 2016 SC

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Report on Previous Conclusions & Recommendations (C&Rs)

I. Introduction

- 1 This document identifies previous C&Rs of the Special Commission that required action from either the Permanent Bureau or Contracting Parties.
- 2 A list of actionable C&Rs, included at Annex I, outlines C&Rs adopted by the Special Commission at its 2003, 2009, 2012, and 2016 meetings. For clarity and ease of review, the C&Rs have been summarised and regrouped by topic, where appropriate.
- 3 Each C&R is accompanied by an update on its status of completion and the extent to which action has been taken to address it.

II. Proposal for the Special Commission

- 4 The PB invites the Special Commission to note the report on previous C&Rs.

ANNEXES

Annex I: List of Actionable C&Rs

A. Scope of the Convention

C&R No(s)	Action Item	Status
C&R No 10 of the 2003 SC	Noted that despite some isolated concerns, there were no developments that would justify the need to reconsider the Article 1(3)(b) exclusion and suggested the matter be further explored in the Handbook.	<p>This matter was discussed in the first edition of the Apostille Handbook.</p> <p>Following further discussion at subsequent SC meetings, the PB has also included the exclusions on the agenda at this SC meeting.</p> <p><i>See also, Info. Doc. No 3 of August 2021.</i></p>
C&R No 76 of the 2009 SC C&R No 17 of the 2012 SC C&R No 11 of the 2016 SC	Recommended further work relating to the process of authenticating documents generated by supranational and intergovernmental organisations, and the possible application of the Convention to these documents.	<p>A Working Group was convened in 2017 to study these matters and offered three options when a need arises to authenticate such documents:</p> <ol style="list-style-type: none">1. The relevant Competent Authority in the host State, in possession of the required sample signatures and seals, may apostillise the document.2. A notary in the host State may authenticate the document (or a copy), and this notarial authentication may be apostillised.3. A government office or authority may be designated by the host State to act as an intermediary to authenticate the documents, and these authenticated documents may then be apostillised. <p>The Working Group further concluded that a protocol to the Convention was not needed.</p> <p><i>See also, Report of the Working Group on the Authentication of Documents Generated by Supranational and Intergovernmental Organisations of December 2017.</i></p>

C&R No 16 of the 2012 SC	Recommended further monitoring of the application of the Convention to extradition requests and continued dialogue with INTERPOL and other law enforcement agencies to explore possible synergies (incl. in relation to the e-APP, and the secure and swift transmission and execution of requests).	<p>This topic was monitored and was again discussed in 2016, resulting in C&R No 8 of the 2016 SC:</p> <p><i>The SC recognises that there is nothing in the Convention that precludes its application to documents relating to extradition and notes that the responses to the 2016 Questionnaire revealed a diversity of practices in relation to the use of Apostilles for these documents.</i></p> <p>At this stage, and subject to further developments, the PB does not see a need for joint HCCH-INTERPOL work.</p>
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B. Model Apostille Certificate

C&R No(s)	Action Item	Status
C&R No 19 of the 2003 SC C&R No 89 of the 2009 SC C&R No 20 of the 2012 SC	Recommended the development of bilingual models of the Apostille Certificate; invited Contracting Parties to send samples to the PB develop multilingual models; suggested these models be made available on the HCCH website.	<p>The PB has developed bilingual (English / French) model Apostille Certificates and a number of multilingual model certificates which are available on the HCCH website.</p> <p>Many Contracting Parties have incorporated their own language(s) into multilingual Apostilles.</p> <p>The PB continues to encourage and facilitate this practice, and has developed a full collection of multilingual model certificates for the consideration of the SC.</p> <p><i>See also, Prel. Doc. No 4 of August 2021.</i></p>
C&R No 85 of the 2009 SC C&R No 86 of the 2009 SC C&R No 23 of the 2012 SC	Recommended the use of additional text on Apostille Certificates, including to recall the limited effect of an Apostille (<i>i.e.</i> , certifying only the origin of the underlying public document and not its content), or to include information about verification (<i>e.g.</i> , accessing the relevant e-Register).	<p>Many Contracting Parties employ additional text, either in relation to:</p> <ol style="list-style-type: none"> the limited effect of the Apostille; the Competent Authority's e-Register; or other information, <i>e.g.</i>, contact information for the Competent Authority and language for use in non-Contracting Parties. <p>According to the sample Apostilles on file with the PB, 47 Contracting Parties employ additional text, of which 41 recall the limited effect of an Apostille, and 29 provide access to the e-Register.</p> <p>The PB has also included model additional text in the Apostille Handbook.</p>

C. Technology and the electronic Apostille Programme (e-APP)

C&R No(s)	Action Item	Status
C&R No 24 of the 2003 SC	Recommended working toward the development of techniques for the generation of electronic Apostilles taking into account <i>inter alia</i> the UNCITRAL model laws on electronic commerce and on electronic signatures.	<p>The e-APP was launched in 2006, comprising both an e-Apostille and e-Register component, to mirror the Article 3 Certificate and Article 7 register in the Convention.</p> <p>The principles of technological neutrality and functional equivalence underpinning the UNCITRAL model laws on electronic commerce and electronic signatures are also fundamental principles of the e-APP.</p>
C&R No 96 of the 2009 SC C&R No 28 of the 2012 SC	Invited Contracting Parties to consider implementation of one or both components of the e-APP.	<p>Interest among Contracting Parties in e-APP implementation continues to increase. Competent Authorities in over 40 Contracting Parties have implemented one or both components of the e-APP.</p> <p>The effective implementation and practical operation of the e-APP is discussed at meetings of the International Forum on the e-APP. The Forum has extended a similar invitation to Contracting Parties.</p> <p>The PB continues to encourage Contracting Parties to consider e-APP implementation and regularly provides support to Competent Authorities in relation to the e-APP.</p>
C&R No 88 of the 2009 SC	Encouraged the use of technological means to fill out Apostilles.	<p>The PB continues to encourage Competent Authorities to modernise their practices. From the 2021 Apostille Questionnaire, a majority of responding Contracting Parties reported using computer software to complete their Apostilles.</p> <p><i>See also, Prel. Doc. No 2 of August 2021.</i></p>

D. Practical Handbook

C&R No(s)	Action Item	Status
C&R No 9 of the 2003 SC C&R No 99 of the 2009 SC C&R No 29 of the 2012 SC	Recommended that a Handbook on the practical operation of the Convention be prepared and finalised by the PB.	The first edition of the Apostille Handbook for the Convention was published in 2013 and is available on the HCCH website. A new edition is currently in development.
C&R No 3 of the 2016 SC	Noted that the PB will develop an updated edition of the Apostille Handbook.	A draft of the new edition of the Apostille Handbook has been presented to the SC for consideration. The final draft will be submitted to the Council on General Affairs and Policy for approval. <i>See also, Prel. Doc. No 3 of March 2021.</i>

E. Apostille Section and HCCH Website

C&R No(s)	Action Item	Status
C&R No 8 of the 2003 SC	Recommended that the PB consider a frequently asked questions section on the Apostille Section of the website.	The PB published an “ABCs of Apostilles” brochure in 2013 to address the need for a frequently asked questions (FAQs) section. Its content will be updated to reflect the information in the new edition of the Apostille Handbook. Once finalised, the PB will consider appropriate publication options, including facilitating online access.
C&R No 12 of the 2003 SC C&R No 70 of the 2009 SC	Recommended that Contracting Parties provide the PB with all information relevant to the Competent Authority and their processes and provide annual updates to the PB, in addition to promoting the “Apostille Section”.	The PB periodically receives information from Contracting Parties for publication on the HCCH website, including contact details for Competent Authorities and other practical information. Both Contracting Parties and the PB continue to promote the use of the resources available on the Apostille Section.

C&R No 71 of the 2009 SC	Invited the PB to include previously designated Competent Authorities on the website and to explore the possibility of using automated e-mail alerts to inform Competent Authorities about new Contracting Parties.	<p>Where possible, the PB includes information about previous Competent Authority designations on the HCCH website, however the authoritative record for changes in designations is available on the website of the Depositary for the Convention (the Ministry of Foreign Affairs of the Kingdom of the Netherlands).</p> <p>The Depositary also provides automated alerts when there is a new Contracting Party to the Convention.</p> <p>Under the e-APP, the PB has recently implemented a notification system for when Contracting Parties begin issuing e-Apostilles or maintaining an e-Register.</p> <p><i>See also, Info. Doc. No 4 of August 2021.</i></p>
C&R No 4 of the 2016 SC	Encouraged the PB to study and implement additional modifications to the website, including improvements to the status table of the Convention.	<p>The PB has adjusted the status table for all HCCH Conventions, combining both Member and non-Members in a single list, to avoid confusion as to the Contracting Parties to a particular Convention.</p> <p>The PB regularly considers and implements other improvements to both the Apostille Section and other areas of the HCCH website.</p>

F. Other

C&R No(s)	Action Item	Status
C&R No 100 of the 2009 SC	Suggested that the practical operation of the Apostille Convention not be considered in conjunction with the Service and Evidence Conventions or any other HCCH Convention.	Upon the recommendation of the SC, the Apostille Convention has not been considered in conjunction with any other HCCH Convention since the 2009 meeting of the SC.