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From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. prev. doc.:	13884/23
Subject:	The 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Maintenance: Line to take concerning the accession of Botswana - Approval

I. EXPLANATORY BACKGROUND

1. The Working Party in Civil Law Matters (General Questions) wishes to bring to the attention of Coreper the question of the European Union's¹ position to the accession of Botswana to the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (hereafter 'the 2007 Hague Convention').

¹ In accordance with articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the establishment of the EU's position.

II. THE 2007 HAGUE CONVENTION

2. With regard to the 2007 Hague Convention, the Union has exclusive external competence, pursuant to Article 3(2) TFEU, insofar as the provisions of the Convention may affect or alter the scope of common EU rules on maintenance obligations².
3. The EU is a full contracting party to this Convention, which entered into force for the Union on 1 August 2014.
4. Pursuant to Article 58 (3) of the Convention, any third State can accede. However, according to Article 58(5) of the Convention, such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the 12 months after the date of the notification of the accession to the depositary.
5. The Depositary notified Botswana's accession to the 2007 Hague Convention on 15 November 2022. The twelve-months deadline for any objection to the proposed accession expires on **15 November 2023**.³
6. According to the Commission's information, which was put forward in ST 12085/23 and presented orally in the Working Party on Civil Law matters (General Questions) on 6 September 2023, notwithstanding the problems linked to the difficult economic situation, overall the rule of law and the judiciary in Botswana are rather satisfactory.
7. The two policy options as resulting from the 2007 Hague Convention are: (a) No objection to an accession; (b) Objection to an accession.

² Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations. (OJ L 7, 10.1.2009, p. 1–79).

³ According to information provided by the Depositary.
https://repository.overheid.nl/frbr/vd/011740/1/pdf/011740_Notificaties_54.pdf

III. SUMMARY OF THE CONTRIBUTIONS BY THE WORKING PARTY ON CIVIL LAW MATTERS AND ITS RECOMMENDATION ON THE ACCESSION OF BOTSWANA

8. The Working Party on Civil Law Matters (General Questions) discussed the accession of Botswana to the 2007 Hague Convention on 20 June, 6 September and 4 October 2023 and did not identify any fundamental obstacles related to the civil law area which could lead to an objection to the accession. The Commission shares the same views.
9. The Working Party on Civil Law Matters (General Questions), therefore, is recommending to Coreper that the European Union should not raise an objection to the accession of Botswana to the 2007 Hague Convention.
10. This recommendation to approve a line to be taken in the case of Botswana is without prejudice to the procedure to be followed in the future to establish the European Union's position concerning the accession of third States to such Hague Conventions which have the same accession mechanism as the 2007 Hague Convention.

IV. CONCLUSION

11. In view of the above, the Permanent Representatives Committee is invited to recommend to the Council to approve that the line to be taken by the European Union is not to raise an objection to Botswana's accession to the 2007 Hague Convention.
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