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#### NOTE

From:	the Presidency and the Services of the Commission
To:	Working Party on Civil Law Matters (General Questions)
Subject:	Council on General Affairs and Policy of the Hague Conference (7-10 March 2023) - Draft coordinated position of the European Union

**DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (20.03.2023)**

#### **I. INTRODUCTION**

1. The forthcoming meeting of the Council on General Affairs and Policy of The Hague Conference (hereinafter: 'the Council on General Affairs' or 'the Council' or 'CGAP') from **7 to 10 March 2023** will be deciding on the work programme of The Hague Conference for 2023-2024 on the basis of the various documents drawn up by the Permanent Bureau. A draft agenda of the meeting is available on the HCCH website. Under the agenda, the third day (9 March) will be dedicated to the issues of the governance of the Organisation, in the format of a closed meeting of Members of the Conference.

2. The Working Party on Civil Law Matters (General Questions) started the preparation of the CGAP during its meeting on 1 February 2023. The Working Party will continue to discuss at its meeting on **24 February 2023** the suggestions for a position on the work programme 2023-2024 presented by the Commission and the Presidency. A draft coordinated position is set out below in Part II.

## **II. SUGGESTIONS FOR A COORDINATED POSITION ON CERTAIN ISSUES LISTED UNDER PARTS II-V OF THE DRAFT AGENDA**

### **A. WORK RELATING TO POSSIBLE NEW (LEGISLATIVE) INSTRUMENTS (AGENDA ITEM II)**

#### ***a) Parentage/Surrogacy (agenda item II.2 of the draft agenda - Prel. Doc. No 1)***

3. HCCH work on the status of children started in 2012, with the Permanent Bureau drawing a preliminary report and preparing a Questionnaire in order to obtain more detailed information regarding the extent and nature of the private international law issues being encountered in relation to international surrogacy arrangements, as well as in relation to legal parentage or "filiation" more broadly.
4. A detailed study of legal parentage and the issues arising from international surrogacy arrangements was produced in 2014 by the Permanent Bureau. The conclusion of the study was that further international work in this area was desirable in order to 1) ensure legal certainty and security of legal status for children and families in international situations and 2) protect the rights and welfare of children, parents and other parties involved with the conception of children in international situations, in line with established human rights standards.
5. The Experts' Group on the Parentage / Surrogacy Project was established following a decision made at the meeting of the Council on General Affairs and Policy in 2015.

6. The 2020 Council welcomed the reports of the Experts' Group and endorsed continuation of the work on a general private international law instrument on the recognition of foreign judicial decisions and a separate protocol on the recognition of foreign judicial decisions arising from international surrogacy arrangements, inviting the Experts to continue developing potential provisions to be included in both instruments.
7. The 2020 Council also underlined that any work by the HCCH in relation to international surrogacy arrangements should not be understood as supporting or opposing surrogacy.
8. At the October 2020 meeting, the Experts' Group focused on potential provisions to be included in a general private international law instrument on the recognition of foreign judicial decisions and a separate protocol on the recognition of foreign judicial decisions arising from international surrogacy arrangements, following the mandate of the 2020 Council.
9. The eighth meeting of the Experts' Group was held via videoconference from 15 to 17 February 2021. The EU, represented by the Commission, participated as an observer in this meeting, as the matters dealt with by the Experts' Group may be useful for the preparation of an initiative on the recognition of parenthood between Member States.
10. At the 2021 Council, the Experts' Group provided a short update on progress; two additional Experts' Group meetings were held in July and November 2021, on the scope of the possible draft Convention on legal parentage and the scope of the possible draft Protocol on legal parentage established as a result of an (international) surrogacy arrangement. Representatives of the Commission attended these meetings, as part of the preparation for the Commission initiative on the recognition of parenthood between EU Member States. It was decided to mandate the Experts' Group to prepare a full report for the 2023 CGAP meeting.
11. The Expert's Group met two times in March and October 2022 to finalise its final report, which was submitted to CGAP 2023 in order to take a decision whether further work should be carried out.

12. The final report summarise the findings of the Expert's Group so far, focusing on the legal feasibility of a Convention dealing with the matter of legal parentage (including its scope, recognition of judicial decisions, jurisdiction and applicable law issues, possible rules on cooperation). As it was deemed much easier for some States to accept a Convention which would not include in its scope legal parentage arising from international surrogacy arrangements (ISA), due to the different national rules on surrogacy, the Expert's Group discussed the main features a possible Protocol which would deal with this specific matter (including recognition of legal parentage established by judicial decision or by operation of law, strong focus on the human rights of the parties involved, indirect rules of recognition, grounds for non-recognition, general safeguards/standards).
13. The Experts' Group concluded that for both Convention and Protocol, there are several promising elements but feasibility challenges as well. If the CGAP would decide that work should continue on this matter, it is recommended to establish a Working Group that should proceed *on the basis that the aim of any new instrument would be to provide greater predictability, certainty and continuity of legal parentage in international situations for all persons concerned, taking into account their human rights, including, for children, those enshrined in the UNCRC and in particular their right that their best interests be a primary consideration in all actions taken concerning them.*
14. The Experts' Group underlines that the PB indicates that if CGAP decides to give the mandate to work on one instrument at a time, the necessary resources within the International Family and Child Protection Division will need to be allocated for the PB to carry out this work. If it is decided to work on a Convention and a Protocol in parallel at the same time, it is clear that at least, the PB will have to re-organise its resource allocation, to the detriment of other work, or an increase in human resources will be needed at the PB.

15. Until the 2022 meeting, the EU informed the CGAP that, since there was a lack of uniform regulation at EU level on these matters and issues of parentage/surrogacy are regulated by the national laws of the Member States, the EU would not have presented its position and the Member States would have expressed their own position on the subject.
16. However, as it was already anticipated at CGAP 2022, on 7.12.2022, the Commission adopted a proposal for a Council Regulation on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood<sup>1</sup>. The matters addressed in this proposal overlap with the matters addressed by the HCCH Experts' Group on Parentage/Surrogacy.
17. The **Commission proposal** on the recognition of parenthood between Member States has the **best interests of the child and the rights of the child** as its primary consideration. It is an instrument of **private international law** that includes rules on jurisdiction, applicable law, recognition of decisions, acceptance of authentic instruments and the creation of a **European Certificate of Parenthood (ECP)**. The ECP can be requested by children or their legal representatives to prove the establishment of parenthood in a Member State and thereby facilitate the recognition of that parenthood in another Member State. The proposal **does not affect the substantive family law of the Member States** on matters such as, for example, the definition of family. The proposal covers the recognition of the parenthood of **all children** irrespective of how the child was conceived or born, irrespective of the type of family of the child and irrespective of the nationality of the child or that of its parents, **provided the parenthood has been established in an EU Member State**. The recognition of the parenthood established in a non-EU State will remain subject to the national rules of each Member State.

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<sup>1</sup> Proposal for a COUNCIL REGULATION on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood COM/2022/695 final.

18. While negotiations in the Council are only at the beginning, it is clear, on the basis of the duty of sincere cooperation, that the adoption of a proposal on a certain subject matter has consequences also in relation to the EU position in international fora<sup>2</sup>. It is therefore appropriate that, at CGAP 2023, the Union presents a common position on this issue.
19. In relation to the content of the common position, it would not be consistent for the Union to express a position against the continuation of work in this area at the HCCH. However, due to the several challenges that international surrogacy arrangements raise at the international level, and the scarcity of resources at the HCCH, **DELETED**
20. **At the CGAP meeting, it is suggested that the Union<sup>3</sup> thanks the Experts' Group for the substantial work accomplished and the very informative final report. The EU will inform the CGAP that the Commission has adopted a proposal for an EU Regulation dealing with jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood. The EU will briefly inform the CGAP on the content of this proposal. In relation to possible work in relation to legal parentage at the HCCH, the EU can support the establishment of a Working Group. **DELETED****

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<sup>2</sup> Case C-246/07 *Commission v. Sweden*, paragraphs 74 to 77. The Court has deduced from the principle of sincere cooperation that Member States are subject to special duties of action and abstention not only where the EU has legislated internally but also in a situation where the Commission has submitted proposals to the Council or where an Union strategy has been otherwise established.

<sup>3</sup> To be presented by the Presidency and the Commission.

***b) Jurisdiction (agenda item II.2 on the draft agenda) (Prel. Doc. No 2)(not yet available) TO BE COMPLETED after the WG on Jurisdiction***

21. The 2019 Judgments Convention does not contain rules of direct jurisdiction. It contains only acceptable jurisdictional filters for the purpose of recognition and enforcement of foreign judgments, the so-called indirect grounds of jurisdiction. This outcome is not accidental and is the result of a careful approach to the subject matter of direct jurisdiction because of previous experiences at the Hague Conference on Private International Law. Indeed, the inclusion of direct jurisdiction rules is one of the reasons for the failure of the previous attempt to reach agreement on a comprehensive convention on jurisdiction and the recognition and enforcement of foreign judgments.
22. However, in 2012 when the Judgments Project was revitalised, the Council on General Affairs and Policy acknowledged that the desirability and feasibility of making provisions on direct jurisdiction, including on parallel proceedings, required further study and discussion at the experts' group level. The discussions at the level of the Working and Experts' Group reached in 2015 a compromise that work on a recognition and enforcement convention, including jurisdictional filters, would go ahead, and that as soon as significant progress was made in that file work would also commence on the issue of direct jurisdiction.
23. That compromise, **DELETED**, was endorsed by the Council on General Affairs and Policy in its 2016 meeting. At that meeting, there was agreement to put the matter of direct jurisdiction for consideration of the Experts' group "in view to preparing an additional instrument". This decision was reiterated in subsequent meetings of the Council. As work on the Judgments Convention was completed in July 2019, the Experts' Group on jurisdiction resumed work in February 2020 and had two additional meetings in November 2020 and February 2021.

24. These two meetings since the last CGAP confirmed that this is a very sensitive topic in which an important number of States are reluctant to legislate at the international level. However, while it was difficult to find consensus in the group on the feasibility of drafting a binding instrument focused on direct jurisdiction, many experts shared the view that it is desirable and necessary and indeed feasible to focus the future work for the time being on the rules of parallel proceedings.
25. **DELETED**.
26. The 2021 CGAP conclusions speak of the continuation of the work in the area of jurisdiction in cross-border cases in the framework of a Working Group to be established in order to develop draft provisions which will first focus on the area of parallel proceedings and related actions. These binding rules should acknowledge the primary role of both jurisdictional rules and the doctrine of *forum non conveniens*.
27. **DELETED**
28. In 2022, CGAP mandated the Permanent Bureau to convene two further meetings for the WG on Jurisdiction before the 2023 meeting of CGAP, with intersessional work as required.



29. The Working Group established through this decision of CGAP met once in 2021, twice in 2022 and, most recently, in February 2023. **DELETED**

30. **DELETED**

31. **DELETED**

32. **At the CGAP meeting, it is suggested that the Union <sup>4</sup> (TO BE COMPLETED AFTER WG)**

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<sup>4</sup> To be presented by the Commission

*c) Insolvency (agenda item II.3-Prel.Doc.n.4)*

*Applicable law in cross-border insolvency proceedings*

33. On the initiative of the European Commission, which resulted in a EU Proposal for future work at UNCITRAL, the UNCITRAL Commission requested its Secretariat to organize a colloquium, in cooperation with other relevant international organizations, at the fifty-seventh session of UNCITRAL Working Group V in New York, with a view to submitting more concrete proposals for consideration by the UNCITRAL Commission at its fifty-third session, in 2020.
34. Taking into account fact that the three existing UNCITRAL model laws relating to cross-border insolvency address important areas of cross-border insolvency law, including access, recognition and relief (including enforcement of judgments, coordination, centralization and cooperation in cases of enterprise group insolvency), do not address choice of law or issues of applicable law, a future instrument on the applicable law - be it a stand-alone text or a supplement to the current UNCITRAL Model Law on Cross-Border Insolvency – would represent a logical step further to the work already accomplished by UNCITRAL and is currently considered its missing piece.
35. Given the mandate and the expertise of The Hague Conference on Private International Law and considering the past cooperation between the two organisations in the field of insolvency, as endorsed by CGAP 2020, the PB jointly organised the Colloquium on Applicable Law with the Secretariat of UNCITRAL, which took place on 11 December 2020, thus contributing to inform an UNCITRAL decision on further work in relation to the law applicable to insolvency.
36. In 2021, the CGAP reiterated support for the mandate to the Permanent Bureau to coordinate and co-operate with the Secretariat of UNCITRAL on this subject matter, in relation to possible future work in this field.

37. As mandated by CGAP, the PB continued to closely coordinate and cooperate with the UNCITRAL Secretariat on this project. Given the complexity of the topic and the necessity for high-level expertise in this area, the UNCITRAL Secretariat further organised an Experts' Group meeting on the applicable law in insolvency proceedings, which was held online on 15 and 16 September 2021.
38. In December 2021, Working Group V agreed to, and followed, a step-by-step approach proposed by the UNCITRAL Secretariat, before deciding the form and direction of the work. Namely, (a) to use recommendations 30–34 and accompanying commentary of the UNCITRAL Legislative Guide on Insolvency Law, which was originally produced with the cooperation of the HCCH, as the starting point for its deliberations on the topic; and (b) to focus first on *lex fori concursus* and exceptions thereto in the context of a simple scenario (an insolvency proceeding with respect to a single debtor) and then take up any other issues of applicable law in insolvency proceedings, i.e., those arising from concurrent insolvency proceedings and enterprise group insolvency, at later stages.

#### ***Asset tracing and recovery***

39. At the fifty-second session of UNCITRAL, the USA submitted a proposal for Working Group V to prepare model legislative provisions on civil asset tracing and recovery in insolvency proceedings, by using a toolbox approach. The Commission agreed on the importance of the topic and organised a colloquium, in cooperation with other relevant international organisations, aimed at further clarification and refinement of various aspects of the Commission's possible work in that area.

40. At its fifty-ninth session that followed the colloquium and where the Permanent Bureau participated as an observer, Working Group V expressed support for developing a toolkit to provide effective tools in the field of civil asset tracing and recovery. Working Group V carried out a discussion based on the recommendations of the UNCITRAL Legislative Guide on Insolvency Law while exploring the relationship of the ongoing work with the former UNCITRAL Model Laws. It was proposed by some delegates that inter-sessional experts' group meetings should be established in order to expedite the process. Delegations also noted the need to maintain close coordination with the HCCH and UNIDROIT, so as to avoid any overlap or duplication, particularly in relation to the ongoing work of the UNIDROIT Working Group on Best Practices for Effective Enforcement, aimed at providing general practice guidance on domestic judicial, and possibly non-judicial, enforcement, including those related to insolvency.
41. While some flexibility was expressed for a final product to take the form of either a practice guide or a legislative guide, a large number of views suggested that it would be unfeasible to prepare a model law or another instrument that would try to achieve unification or harmonization of diverse legislative approaches to civil procedure aspects involved in asset tracing and recovery in insolvency proceedings. It was therefore considered to take a toolbox approach in drafting a text, which would entail explaining different existing tools, including those found in UNCITRAL insolvency texts.
42. In 2022, the Working Group V continued deliberations on both topics - asset tracing and applicable law. They touch upon a broad range of issues, many of which were complex and required careful consideration. Working Group V and UNCITRAL Secretariat identified key issues involved in both projects and for organizing the work, treating both topics equally. They again underscored the importance of close coordination and cooperation in that work with other international organizations, in particular Unidroit, whose current work touched upon several issues discussed in the Working Group, most notably the aspects of digital assets. Close cooperation and coordination among all concerned was considered important to avoid inconsistent results, unnecessary duplication of efforts and inefficient use of resources. A view was expressed that preparing a separate set of rules on applicable law in insolvency proceedings would be particularly important because of the lack of such rules in many jurisdictions.

43. **Civil asset tracing and recovery in insolvency proceedings:** An inventory of civil asset tracing and recovery tools being used across different jurisdictions in insolvency proceedings was discussed in the Working Group, reflection submissions by States received by the Secretariat in response to its request in a note verbale. Strong preference was expressed for continuing work on a toolbox. It was recalled that some delegations had supported UNCITRALs work on the topic on the condition that a final text would take the form of a descriptive, informational and educational text that would classify tools and identify common features but would not recommend or highlight particular models to follow.
44. **Applicable law in insolvency proceedings:** Working Group continued consideration of the topic on the basis of a note by the Secretariat, reaching agreement on some issues and deferring others. The Working Group requested the secretariat to present materials on which agreement was reached in the form of draft legislative provisions with accompanying commentary and other materials in a form that would facilitate their consideration and resolution of outstanding issues.
45. **At the CGAP meeting, it is suggested that the Union <sup>5</sup> thanks the Permanent Bureau and **DELETED** for the work done so far on matters related to applicable law in insolvency proceedings and to civil asset tracing and recovery in insolvency proceedings. The Union should support the conclusion that cooperation with the Secretariat of UNCITRAL on insolvency related projects, should continue, upon its request, whenever existing HCCH instruments are of relevance, resources permitting and subject to the availability of pro bono contributions by external experts. Also subject to available resources, the PB should continue to monitor developments with respect to PIL issues in insolvency, including issues relating to the treatment of digital transactions and digital assets in insolvency proceedings.**

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<sup>5</sup> To be presented by the Commission

*d) Intellectual Property (agenda item II.4-Prel.Doc. No 3A)*

46. At the meeting of the Council on General Affairs and Policy in 2020 it was decided that the PB should continue its close cooperation with the International Bureau of WIPO, including through the preparation of a joint questionnaire that would identify relevant issues of private international law in cross-border intellectual property law dealings. The PB was invited to report back to CGAP before the meeting of 2022.
47. The questionnaire mentioned above was distributed in 2021. The EU submitted its reply on 14 July 2021. The questionnaire was rather successful, with over 300 replies from different stakeholders. From the EU, in addition to the reply submitted by the Commission on behalf of the EU, 13 Member States lodged their own contribution.
48. **DELETED**
49. Based on these replies and the subsequent discussion at CGAP 2022, it was decided that the PB will “continue monitoring developments on the intersection of intellectual property and private international law, subject to available resources”.
50. Following this limited mandate from CGAP and the recommendations of experts at the HCCH Conference on Commercial, Digital and Financial Law Across Borders (CODIFI Conference) the PB has compiled a table of recent IP-related cases which relate to the application of substantive IP rules in the digital sphere.
51. **In accordance with the conclusion at CGAP 2022, it is suggested that the Union<sup>6</sup> reiterates its support for the continuous monitoring of developments on the intersection of IP and PIL, subject to available resources. This work could be relevant also in the context of the digital economy but in view of the PB’s limited resources, the monitoring of such developments should concentrate on the intersection between IP and PIL.**

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<sup>6</sup> To be presented by the Commission

*e) Digital economy (agenda item II.5 -Prel. Doc. Nos 3A, 3B and 3C)*

52. At its 2020 meeting, the Council on General Affairs and Policy invited the Permanent Bureau to monitor the private international law implications of the development of the digital economy, with a specific focus on digital ledger technology, and to report its findings to the Council on General Affairs and Policy at its 2021 meeting. Preliminary Document No 4 represents a report on the findings of the Permanent Bureau on this matter, based on the Permanent Bureau's cooperation with UNIDROIT and UNCITRAL in relation to their own initiatives in the concerned area.
53. The Permanent Bureau has concluded in the report that significant private international law implications exist in relation to the development of the global digital economy, but also that these implications are not tied to the underlying technology itself, such as digital ledger technology, nor to its concrete applications, such as cryptocurrencies, the use of blockchain or smart contracts. Rather, the implications for PIL are due to the uses and functions of these systems and applications. Against this background, the report identifies the key trends in the development of the global digital economy which have a private international law impact. These include the lack of harmonization in the development of terminology tied to the technologies and systems based on digital ledger technology, the decentralized nature of digital assets and their recording, difficulties of applying traditional jurisdictional connecting factors as well as specific issues in relation to enforcement, and the emergence of new, digital-specific connection factors.
54. The report particularly outlines various legislative initiatives aimed at codifying the private international law aspects related to the increasingly diverse technologies emerging in the context of the global digital economy. However, these initiatives are inherently fragmented since no harmonization exists between the concerned jurisdictions as to the codification relating to applicable law, choice of law, choice of forum, recognition and enforcement, nor relating to the kinds of digital assets and technologies which are being regulated.

55. The Permanent Bureau proposed to the 2020 Council on General Affairs and Policy a continued monitoring of the relevant developments of the global digital economy, and the formation of an Experts' Group mandated to assess the desirability, necessity and feasibility of a new instrument on jurisdiction, law applicable, and recognition and enforcement of judgments in respect of digital assets, with a view to the potential new instrument providing unified rules of private international law rules governing issues that arise in the context of the global digital economy.

56. **DELETED**

57. In its Preliminary document No 4 in preparation of CGAP 2022, the Permanent Bureau proposed to continue monitoring developments with respect to the digital economy, to continue to study the topic, with a view to identifying private international law issues for potential future work, and to work with other organisations in the field, such as UNCITRAL and UNIDROIT. The Permanent Bureau proposed to continue preparations for the 2022 Commercial and Financial Law Conference, with a view to including the questions raised in Preliminary document No 4 in the programme of the Conference. The Permanent Bureau would have reported on the conclusions and outcomes of the 2022 Commercial and Financial Law Conference in relation to the digital economy to CGAP at its 2023 meeting.

58. **DELETED**



59. Preliminary Doc. No 3A circulated for CGAP 2023 (besides the specific issue of Intellectual Property already dealt with at point d)), notes the outcomes of the 2022 Conference on Commercial, Digital and Financial Law Across Borders (CODIFI Conference) and invites the HCCH Members to identify the outcome of greatest significance in their specific context, also in the light of potential future normative work.
60. The PB asks to be mandated by the CGAP to continue monitoring developments with respect to AI, digital platforms and automated contracting, in partnership with subject-matter experts and with UNCITRAL; continue monitoring developments with respect to the digital economy, with a view to identifying PIL issues for potential future work; continue developing, subject to available resources, substantive activities concerning topics falling under the purview of the International Commercial, Digital and Financial Law Division; and continue work with other organisations in the field, such as UNCITRAL and UNIDROIT.
61. **At the CGAP meeting, it is suggested that the Union<sup>7</sup> thanks the Permanent Bureau for the work done in relation to the organisation of the CODIFI conference**  
**DELETED**

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<sup>7</sup> To be presented by the Commission

62. Preliminary Doc. No 3B refers to Private International Law Aspects of Central Bank Digital Currencies (CBDCs). These are digital currencies issued by Central Banks. Experts at the CODIFI Conference highlighted the potential for CBDCs to be used in finance, trade, e-commerce and similar issues. Questions on PIL issues in relation to CBDCs were raised at the CODIFI Conference, such as applicable law, jurisdiction, recognition and enforcement.
63. The PB asks to be mandated by CGAP to study the PIL implications of CBDCs and report to CGAP 2024 including proposal for next steps. Furthermore, the PB asks to be mandated by CGAP to organise an on-line colloquium on these matters.
64. **DELETED**<sup>8</sup> **DELETED**
65. **DELETED**

66. At the end of 2020, the Commission adopted the Digital Finance package, a package of measures to further enable and support the potential of digital finance in terms of innovation and competition while mitigating the risks. It is in line with the Commission priorities to make Europe fit for the digital age and to build a future-ready economy that works for the people. The digital finance package includes a new Strategy on digital finance for the EU financial<sup>9</sup> sector with the aim to ensure that the EU embraces the digital revolution and drives it with innovative European firms in the lead, making the benefits of digital finance available to European consumers and businesses. In addition to this proposal, the package also includes a proposal for a pilot regime on distributed ledger technology (DLT) market infrastructures<sup>10</sup>, a proposal for digital operational resilience<sup>11</sup>, and a proposal to clarify or amend certain related EU financial services rules<sup>12</sup>.
67. Moreover, the proposal mentioned under footnote 8 is also part of the package. The proposal underlines the need for a clear definition of the regulatory approach to crypto-assets not covered by the existing financial services legislation. Also, the proposal identifies a need to establish a secure and proportionate legal framework to promote the development of crypto-assets and the use of DLT.
68. If work will have to be continued at HCCH level, this would imply a careful analysis of the Commission proposals under discussion at the Council and at the European Parliament and afterwards of the adopted instruments by the EU legislators.

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<sup>9</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions on a Digital Finance Strategy for the EU, 23 September 2020, COM(2020)591.

<sup>10</sup> Proposal for a Regulation of the European Parliament and of the Council on a Pilot Regime for market infrastructures based on distributed ledger technology - COM(2020)594.

<sup>11</sup> Proposal for a Regulation of the European Parliament and of the Council on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 - COM(2020)595.

<sup>12</sup> Proposal for a Directive of the European Parliament and of The Council amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 - COM(2020)596.

69. Preliminary Doc. 3C takes into consideration the expert recommendations of the CODIFI Conference and the work by UNIDROIT (Working Group on Digital Assets and Private Law).
70. The PB asks to be mandated by CGAP to continue to work with UNIDROIT on matters related to digital assets. The PB will report on the results of the HCCH-UNIDROIT Digital Assets and Project at the 2024 CGAP meeting, including suggestions on the desirability and feasibility of continuing work on this topic through the establishment of a joint Experts' Group.
71. **DELETED**<sup>13</sup> **DELETED**

## **B. POST-CONVENTION SERVICES AND ASSISTANCE (AGENDA ITEM III)**

### **1. International family and child protection law**

#### **a) 2000 Protection of Adults Convention (agenda item III.1(c) Prel. docs Nos 6A, 6B and 6C**

72. Preliminary Doc. No 6A reports on the First Meeting of the Special Commission (SC) on the practical operation of the 2000 Protection of Adults Convention (9-11 November 2022) and share the Conclusions and Recommendations (C&R) adopted by the SC.
73. At the Special Commission the EU and 20 Member States were represented. The Permanent Bureau asks the CGAP to endorse the C&R unanimously adopted by the SC.
74. Furthermore, it asks the CGAP to allow the Working Group on the 2000 Protection of Adults Convention to meet again in 2023 in order to discuss and revise the Implementation Checklist, the Practical Handbook on the Operation of the 2000 Protection of Adults Convention and the Draft Country Profile.

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<sup>13</sup>

**DELETED**

75. Upon finalisation of these documents, they will be circulated to HCCH Members for their approval by written procedure.
76. The PB should also begin working on improving the accessibility to HCCH documents by individual with impairments, in particular those related to the 2000 Convention.
77. **DELETED**
78. **DELETED**
79. **DELETED**
80. Preliminary Doc. No 6B reports on the discussion held at the Special Commission concerning the possibility to extend the International Hague Network of Judges (IHNJ) to the 2000 Convention. In the opinion of the Permanent Bureau, it would appear to be more efficient and effective to extend the IHNJ rather than forming a new network solely for the 2000 Convention.

81. **DELETED**

82. **DELETED**

83. Preliminary Doc. No 6C reports on the discussions which took place at the Special Commission on the 2000 Hague Convention in relation to possible amendments to the Convention.

84. The possible amendments were the following: (i) deleting the terms “curatorship” and “guardianship”; (ii) adding a new conflict rule for “*ex lege* representation”; (iii) adding a provision on “instructions given and wishes made by the adult” (e.g. advance directives); and (iv) adding final clauses allowing Regional Economic Integration Organisations (REIO) to join the 2000 Protection of Adults Convention.

85. Those amendments would require the adoption of a Protocol to the Convention as described in Preliminary Doc. No 12 of October 2022 circulated at the Special Commission.

86. **DELETED**

87. **DELETED**

88. **DELETED**

89. **DELETED**

90. **DELETED**

91. **DELETED**<sup>14</sup> **DELETED**

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<sup>14</sup> **DELETED**

**b) 2007 Child Support Convention ( incl. iSupport) and its Protocol (agenda item III.1(d)-Prel. Docs. No 7 A, 7B, 7C, 7D N.B.: Prel.doc. No 7C is not available**

92. Preliminary Document No 7A reports on the 17 to 19 May 2022 meeting of the Special Commission to review the practical operation of the 2007 Child Support Convention and 2007 Protocol on Applicable Law. It asks to endorse the Conclusions and Recommendations of the Special Commission and those of the Applicable Law Working Group (ALWG) and the International Transfer of Maintenance Funds Experts' Group (ITMFEG). The CGAP is also asked to endorse the publication of some documents adopted by the Special Commission which are indicated at paragraph 4 of Prel.Doc. No 7A. Finally, the CGAP is asked to approve the future work programme of the several Working and Experts' Group dealing with maintenance issues.
93. As far as the Administrative Cooperation Working Group (ACWG) is concerned, revision of the Country Profile for child support will be carried out. The International Transfer of Maintenance Funds Experts' Group (ITMFEG) will meet in February 2023 to monitor progress on the implementation of its Conclusions and Recommendations adopted in February 2022 and continue sharing good practises and experiences.
94. The Forms Working Group (Forms WG) will work as a priority on the fillable forms and the translation of forms into other languages as soon as possible, resources permitting. The timing of the on-line meetings of the Forms Working Group and of the Administrative Cooperation Working Group will depend from the available resources at the PB, which is in particular dealing with the organization of the Special Commission on the 1980 Convention on International Child Abduction and the 1996 Convention on Child Protection.
95. **DELETED**<sup>15</sup> **DELETED**

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<sup>15</sup> **DELETED**



96. Preliminary Document No 7B concerns the preparation of the videoconference meeting of the Experts' Group on the international transfers of maintenance funds (13 to 15 February 2023) and asks Central Authorities under the HCCH 2007 Child Support Convention to compile a questionnaire no later than 27 January 2023. Given the nature of the questions, the answers to the questionnaire were not coordinated at EU level, so replies have been sent directly by Member States.
97. Preliminary Doc. No 7D is only for information and provides a compilation of responses received to the questionnaire in preparation for the Experts' Group meeting of February 2023.
98. TO BE COMPLETED WHEN PREL. DOCUMENT 7C WILL BE AVAILABLE.

## 2. Transnational Litigation and Apostille

### a) Transnational Litigation (agenda item III. 2.(a)-Prel. Doc. No 8)

99. Preliminary Doc. No 8 reports on the activities carried out by the recently established Transnational Litigation Team of the Permanent Bureau, and the preparations for the envisaged 2023 meeting of the Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Convention.
100. All these Conventions have complementary goals, each of them contributing to effective access to justice and cross-border cooperation.
101. In relation to the **2019 Judgments Convention**, it is reported that, due to the accession of the EU and the ratification by Ukraine on 29 August 2022, the Convention will enter into force on 1<sup>st</sup> September 2023. A project aimed at encouraging Western Balkans States to ratify the 2019 Convention was carried out and will continue in 2023. Several other promotional activities aimed at raising awareness the **2019 Judgments Convention** and **the Choice of Court Convention** were conducted across various regions.
102. Promotion activities were also carried out in relation to the **1965 Service Convention**, the **1970 Evidence Convention** and the **1980 Access to Justice Convention**.

103. The Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Convention is now planned to take place in mid-November 2023. The Permanent Bureau has circulated in December 2022 a questionnaire requesting information from Contracting Parties and HCCH Members. The PB will also prepare updated drafts of the respective Practical Handbooks on the Operation of the Service and Evidence Conventions and will circulate them before the Special Commission. It is envisaged that the draft revised Handbooks are to be reviewed by the Special Commission and submitted to CGAP, leading to their publication as Fifth Editions of the respective Practical Handbooks on the Operation of the Service and of the Evidence Conventions.
104. **It is suggested that the Union <sup>16</sup> thanks the Permanent Bureau for the efforts spent in raising awareness of the mentioned Conventions.**
105. **With respect to the Conclusions and Decisions proposed by the Permanent Bureau, it is suggested that the EU endorses the work undertaken by the Permanent Bureau to date for the preparation of the Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Convention, and welcomes the upcoming entry into force of the 2019 Judgments Convention.**

### **3. International Commercial, Digital and Finance Law**

#### **a) International Commercial, Digital and Financial Law Instruments**

106. Preliminary Doc. No 10A summarizes the key recommendations made by experts at the HCCH Conference on Commercial, Digital and Financial Law Across Borders (the CODIFI Conference) held online from 12 to 16 September 2022, in relation to the 2006 Securities Convention, the 1985 Trusts Convention and the 2015 Principles of Choice of Law. As Preliminary Docs 10B and 10C are devoted respectively to the 2015 Principles of Choice of Law and to the 1985 Trusts Convention, this section will consider only the 2006 Securities Convention.

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<sup>16</sup> To be presented by the Commission

107. The 2006 Securities Convention ( the *Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary*) entered in to force on 1 April 2007 and has only three Contracting Parties so far (Switzerland, Mauritius and US). The final text of the Convention was adopted in December 2002.
108. On 15 December 2003<sup>17</sup>, the European Commission proposed that the European Community signs the Hague Convention on the law applicable to certain rights in respect to securities held with an intermediary. The proposal took into account the fact that, during the negotiations of the Convention, the delegations from Member States represented in The Hague accepted the compromise solution found in the Convention in order to improve the legal certainty in global financial markets.
109. The Convention introduces a new rule, based on the choice of law expressed in the relevant account agreement, which allows parties a certain degree of freedom to select the applicable law for determining proprietary rights in the securities. The Convention's primary PIL rule (Article 4(1) supports an express choice of law agreement between the account holder and the relevant intermediary.
110. However, this rule is incompatible with the "location of the account" formula used in the current EU legislation, and therefore, the choice for signing the Hague Securities Convention would imply amending the corresponding provisions in the Directives on settlement finality, winding-up of credit institutions and financial collateral arrangements.
111. After conducting a legal assessment of certain aspects of that Convention and discussions on a possible ratification or accession, the European Commission withdrew that proposal on 25 March 2009.
112. The withdrawal was based on considerations expressed, inter alia, by the European Central Bank in its Opinion of 17 March 2005 and by the European Parliament in its Resolution of 14 December 2006 on the implications of signing the Hague Securities Convention.

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<sup>17</sup> COM(2003) 783 final.

113. In 2021, the Commission launched targeted consultations targeted on the FCD<sup>18</sup> and the SFD<sup>19</sup> Directives as part of the review currently on-going on these instruments.

114. For the time being, there is no active legislative file on securities and DLT. Nevertheless, it is not excluded that future proposals might touch on these aspects.

115. The Permanent Bureau proposes the following Conclusions and Decisions for CGAP consideration:

- to study the determination of jurisdiction and applicable law in the context of securities markets in light of developments in technology such as DLT etc;
- to assess the ramifications of the growing attention that financial services and securities industries have accorded to developments in technology and applications, and
- to identify opportunities for the Securities Convention to serve as a starting point in the discussion of the desirability and feasibility of future normative guidance
- to explore the possibility of organising, resources permitting, an online colloquium on these topics.

116. **DELETED**

117. **DELETED**<sup>20</sup> **DELETED**

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<sup>18</sup> Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements, *OJ L 168*, 27.6.2002, p. 43–50

<sup>19</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, *OJ L 166*, 11.6.1998, p. 45–50

<sup>20</sup> **DELETED**

**b) Choice of Law Principles (agenda item III.3. (b)-Prel.Doc. No 10B)**

118. The Principles on Choice of Law in International Commercial Contracts (Choice of Law Principles), the first “soft-law” instrument of the HCCH, are designed to promote party autonomy in international commercial contracts. By acknowledging that parties to a contract may be best positioned to determine which set of legal norms is most suitable for their transaction, party autonomy in the international commercial context enhances predictability and legal certainty – important conditions for effective cross-border trade and commerce. At the same time, the Principles also set reasonable boundaries to party autonomy and thus may provide a refinement of the concept where it is already accepted.
119. In Preliminary Document No 10B, the Permanent Bureau reports on ongoing promotional work on the 2015 Principles of Choice of Law in International Contracts and reports on the finding of the HCCH Conference on Commercial, Digital and Financial Law Across Borders (the CODIFI Conference) held online from 12 to 16 September 2022, which was partly devoted to the 2015 Principles.
120. The majority of experts at the CODIFI Conference indicated the urgent need for, and importance of, developing a set of applicable law rules in international contracts directed at protecting weaker parties, such as consumers and individual employees.
121. Indeed, the 2015 Principles explicitly excluded consumer and employment contracts from their scope.
122. Preliminary Doc. No 10B indicates at paragraph 10 some regional initiatives aimed at protecting the weaker part in a contract through applicable law rules. **DELETED**, there is no explicit mention in the text of the EU legislation into force, meaning Regulation (EC) No 593/2008 on the law applicable to contractual obligations (Rome I), which provides rules specifically aimed at protecting the weaker part in consumer contracts, insurance, contracts and individual employment contracts.<sup>21</sup> The EU legislation is only mentioned in some footnotes and in the Annex.

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<sup>21</sup> Rome I Regulation is only mentioned in some footnotes, for instance 25, 31 and 39.

123. At global level, applicable law rules for the protection of the weaker party are divergent and may lead to legal uncertainty. Due to the lack of an international instrument dealing with applicable law rules, the HCCH may consider embarking on a project providing protection to weaker parties from the perspective of applicable law.
124. Against this backdrop, the PB asks the CGAP to mandate “*the establishment of an Experts’ Group to explore the feasibility, desirability and necessity of developing guidance on applicable law in international contracts providing protection to weaker parties. Subject to available resources, CGAP mandates the PB to continue monitoring developments relating to the 2015 Principles in order to identify areas for review and future work, and to develop promotional documents on the 2015 Principles. The Experts’ Group and the PB are to report to CGAP at its next meeting in March 2024*”.

125. **DELETED**

126. **DELETED**

127. **DELETED**<sup>22</sup> **DELETED**

128. **DELETED**

**c) 1985 Trusts Convention (agenda item III. 3.(c)-Prel. Doc. No 10C**

129. The 1985 Hague Trusts Convention concerns the law applicable to trusts and their recognition. The scope of the Convention is not limited to common law or “Anglo-American” trusts, but includes other institutions that share their main characteristics with those of a trust and which establish the same type of legal relationship as detailed in Article 2 of the Convention. It provides that the term “trust” refers to the legal relationships created - *inter vivos* or on death - by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose. Under Article 2, a trust has the following characteristics: the assets constitute a separate fund and are not a part of the trustee's own estate; title to the trust assets stands in the name of the trustee or in the name of another person on behalf of the trustee; the trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed upon him by law.

130. As reported by the PB there are fundamental differences in the understanding of the sorts of institutions that fall within the scope of the Convention.

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<sup>22</sup>

**DELETED**

131. As for the EU competence in this field, the Rome I Regulation excludes from its scope “the constitution of trusts and the relationship between settlers, trustees and beneficiaries” (Article 1(2)(h)). However, a precise delimitation of that exclusion and the extent to which it may operate in relation to institutions analogous to trusts has not been addressed in the case-law of the Court of Justice on Article 1(2)(h). Nevertheless, institutions of contractual nature similar to trusts are in principle not excluded from the scope of Rome I Regulation and at least some of them fall within the scope of the Convention.
132. The following Member States are parties to the 1985 Convention: Cyprus, Italy, Luxembourg, Malta and the Netherlands.
133. The subject of trusts falls within the area of HCCH work on commercial and financial law. The Permanent Bureau has noted the renewed interest in trusts in these areas and the potential of the Convention in bridging the gaps between common-law trusts and their equivalents in civil law countries, but also the challenges related to its interpretation, not least as regards what institutions fall within its scope, which seem to undermine its relevance.
134. In 2020 The Hague Council invited the Permanent Bureau to commence research and preparations in relation to the commercial and financial law questionnaire and the possible international conference to be held in late 2022, coinciding with the 30th anniversary of the entry into force of the Trusts Convention.
135. In the course of preparing for the commercial and financial law questionnaire and the international conference held in September 2022, the Permanent Bureau collated in 2021 a list of possible topics for future work related to the Convention, which was not exhaustive, but provided an overview of the issues that have been recently raised or discussed. Particularly important from the EU perspective was the issue of the “analogous institutions”, including in civil law countries.
136. In Preliminary Document No 10C the issue of the “analogous institutions” is taken into account, in relation to both civil law jurisdictions and jurisdictions with Islamic law traditions.
137. The 2022 Commercial and Financial Law Conference (CODIFI) addressed the issue of trusts and analogous institutions, in its programme.



138. The experts participating in the CODIFI Conference estimated that further work on the scope of “analogous institutions” in Article 2 of the Trusts Convention may be timely and desirable.

139. Considering the limited resources available, the PB proposes the establishment of an **Experts’ Group to study the interpretation of the term “analogous institutions”**. Subject to available resources, the PB will continue to monitor developments, identify area for further work and develop promotional documents.

140. **DELETED**

141. **DELETED**

142. **DELETED**<sup>23</sup> **DELETED**

143. **DELETED**

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<sup>23</sup>

**DELETED**

#### 4. Collection of Statistical Data

##### **Electronic Country Profiles for the HCCH** (agenda item III.4 (a) –Prel.Doc. 11)

144. Prel. Doc. No 11 is only for information purposes. It relates to the EU Action Grant under the Justice Programme (2021 call for proposals to promote judicial cooperation in civil and commercial matters) attributed to the Permanent Bureau to improve the provision of information under several HCCH Conventions through e-country profiles. 90% of the funding was provided by the EU and the remaining 10% by Australia, France, Germany, Italy, Sweden, Switzerland and the European Bailiffs' Foundation.
145. The total budget is 489,70 Eur and will address the following Conventions: 2007 Child Support Conventions; 1980 Child Abduction Convention; 1996 Child Protection Convention; 1993 Adoption Convention; 2000 Protection of Adults Convention; 1965 Service Convention; 1970 Evidence Convention.
146. The PB proposes that CGAP welcomes the development of e-country profiles under the above-mentioned Conventions and express its gratitude to the EU and the other funders.
147. **It is suggested that the EU<sup>24</sup> takes the floor to support this project and highlight the funding mainly by the EU and some of its Member States.**

##### **Update on Statistics** (agenda item III.4 (b)- Prel. Doc. No 12 (*not yet available*))

148. Preliminary document n.16 was prepared by the Permanent Bureau to propose to CGAP 2022 an approach for the collection of statistical data on the HCCH Core Conventions (14 conventions and 1 protocol), as called for by the CGAP in 2021. To minimise the administrative burden falling upon HCCH Members and Contracting Parties, but at the same time to maximise the benefits of consistent and reliable data collection, the Permanent Bureau is proposing to move to an annual collection of statistics with one single question posed per Core Convention. The annual collection is proposed to start from 2022 with the transmission of data taking place in 2023.

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<sup>24</sup> To be presented by the Commission

149. For many Core Conventions on judicial cooperation, such as the 1965 Service, 1970 Evidence and 1980 Child Abduction, the question relates to the amount of incoming requests received within a specific year. On the other hand, for 1996 Child Protection, 2000 Protection of Adults and 2007 Child Support Conventions the overall number of cases handled by the Central Authority, both incoming and outgoing, is proposed to be asked.
150. The approach adopted by the EU in the area of data collection in civil judicial cooperation is different. It focuses on the collection of the number of incoming cases as recently outlined in the EJN [Good Practices for Data Collection](#) : “Courts, competent authorities and central authorities usually handle incoming and outgoing requests when implementing EU law. As a rule, to avoid contradictory, duplicated or incompatible results, only data in relation to incoming requests should be collected (cooperation between central authorities, competent authorities or entities, as well as for instance requests for a transfer of jurisdiction).”
151. In addition, the proposed Statistical Reports for the 2007 Child Support Convention only include information about incoming requests, which is in contradiction with the single question proposed by Prel. Doc. 16.
152. To alleviate the burden on authorities competent for data collection, and comply with the objective of simplification set by the Permanent Bureau, a uniform approach should be proposed in that matter.
153. At the 2022 CGAP meeting, the Union raised the question whether it would be more coherent to collect data about only incoming requests under all Core Conventions on judicial cooperation and whether collection should only start from 2023. The Member States also expressed their own views on the topic.
154. As a result of the discussions, no decision was taken and CGAP invited the PB to undertake further work on options for the collection of statistics relating to the HCCH Core Conventions, including through consultation with Members and Contracting Parties.
155. The PB will report to CGAP at its 2023 meeting.
156. TO BE COMPLETED when Prel. Doc. No 12 is available

## **C. GOVERNANCE OF THE ORGANISATION (AGENDA ITEM V)**

157. Under agenda point V, several issues related to the governance of the Organisation will be discussed in a closed meeting of the members only. These issues are, in particular, the adoption of the list of observers (Prel. Doc. No 17), the use of Spanish at the HCCH (Prel. Doc. No 18), the formats of future Special Commissions meetings, the revision of the Strategic Plan 2019-2022 (Prel. Doc. No 16) and the question of representation at the HCCH (Prel. Doc. No 22). It is suggested to have a voluntary coordinated position on some of these issues.

*(a) List of observers (agenda item V.1 of the draft agenda - Prel. Doc. No 17) To be completed when Prel. Doc. 17 becomes available*

*(b) Strategic Plan 2023-2028 (agenda item V.5 of the draft agenda - Prel. Doc. No 16)*

158. The Strategic Plan 2019-2022 establishes the strategic direction of the HCCH.

159. In 2021, CGAP noted that the Strategic Plan was still relevant to the work of the HCCH. As such, CGAP mandated the Permanent Bureau to recirculate the Plan for comments and proposed amendments (Prel. Doc. No 23). Many of the comments received noted that the existing Plan provides a solid basis and does require significant changes.

160. In 2022 CGAP extended the Strategic Plan 2019-2022 with some amendments (“Strategic Plan 2022+” in Annex of Prel. Doc. No 23 REV) and mandated the establishment of a Working Group to consider and finalise a new draft Strategic Plan. The new Strategic Plan should run for a longer term to enable the long-term planning of the HCCH and ensure an efficient use of the resources of the PB.

161. Several meetings were held in the Working Group on the Strategic Plan in 2022. Member States voluntarily coordinated in view of these Working Group meetings during the Working Party on Civil Law Matters (General Questions) meetings on 7 September,<sup>25</sup> 19 September, 19 October, 17 November<sup>26</sup> and 30 November<sup>27</sup>. The new draft Strategic Plan for 2023-2028 set out in Prel. Doc. 16 appears to be generally in line with Member States' comments.

162. **DELETED**

163. **DELETED**<sup>28</sup> **DELETED**<sup>29</sup> **DELETED**

***(c) Representation at the HCCH (agenda item V.6 of the draft agenda - Prel. Doc. No 22)***

164. In March 2019, the question of geographic representation in the HCCH was raised under AOB. The discussions focussed on regional groupings and the appointment of Chairs of HCCH meetings.

165. In 2020, the Permanent Bureau provided further information on past discussions on representation within the HCCH as well as the approaches of other international organisations (Prel. Doc. No 23). The HCCH currently informally follows a model of four regional groups when taking into consideration geographic representation: Asia Pacific, the Americas, Africa / Middle East and Europe. CGAP did not reach consensus on an approach for regional groupings, with a number of delegations expressing concern around the risk of politicising the Organisation.

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<sup>25</sup> 11988/22.

<sup>26</sup> 14545/22.

<sup>27</sup> 14974/22.

<sup>28</sup> **DELETED**

<sup>29</sup> **DELETED**

166. In 2021, CGAP continued to discuss this question, which evolved to encompass not only geographical but also gender representation at the HCCH. CGAP requested the Permanent Bureau to provide a historical overview of geographic and gender representation in key bodies and groups of the HCCH. This information is now provided by the Permanent Bureau in Prel. Doc. No 22.
167. In 2022, CGAP mandated the Working Group on the Strategic Plan to consider, as a matter of priority, possible models for regional groups used by the HCCH. CGAP mandated the PB to actively seek appropriate representation across genders and geographic regions when proposing Chairs of meetings of the HCCH and when recruiting staff.
168. In Prel. Doc 22, the PB provides to CGAP an updated overview of geographic and gender representation at the HCCH, in particular concerning geographic and gender representation among Chairs of HCCH meetings and PB staff.
- 169. At the CGAP meeting, it is suggested that the Union<sup>30</sup> thanks the PB for its report on representation within the HCCH and supports the continuation of its work relating to diversity, equity, and inclusion [, in particular] when proposing Chairs and recruiting staff.**

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<sup>30</sup> To be presented by the Presidency.