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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. prev. doc.:	6963/23
Subject:	The 1996 Hague Convention on the Protection of Children: Line to take concerning the accession of Cabo Verde - Approval - Decision to use the written procedure

I. EXPLANATORY BACKGROUND

1. The Working Party on 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 Cabo Verde to the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (hereafter "the 1996 Hague Convention")².

¹ This position does not apply to Denmark 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.

² The subject matters set out in the 1996 Hague Convention are governed internally by Article 81(3) TFEU.

2. The 1996 Hague Convention falls under EU 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 jurisdiction and the recognition and enforcement of judgments in matrimonial matters, matters of parental responsibility and on international child abduction³.
3. All EU Member States are parties to the 1996 Hague Convention. In the absence of a Regional Economic Integration Organisation (REIO) clause, the European Union cannot formally become a Contracting Party to the 1996 Hague Convention. Any actions that the European Union wishes to take in respect of this Convention will have to go through the intermediary of Member States acting in the interest of the European Union.

³ See Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, OJ L 160, 30.6.2000, p. 19–36; Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, OJ L 338, 23.12.2003, p.1–29; Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction, OJ L 178, 2.7.2019, p. 1–115.

4. Pursuant to article 58 of the 1996 Hague Convention, any third State can accede to the Convention. However, such accession will have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to the accession. Such an objection must be raised within 6 months after the receipt of the notification of the accession by the depositary, referred to in Article 63 of the Convention⁴.
5. On 4 October 2022, Cabo Verde deposited its instrument of accession to the 1996 Hague Convention. The depositary notified Cabo Verde's accession on 18 October 2022⁵. In accordance with article 58 (3) of the Convention the deadline to raise an objection to Cabo Verde's accession expires on **18 April 2023**.
6. According to the Commission's information, put forward in ST 6718/23 and presented orally in the Working Party on Civil Law Matters (General Questions) on 24 February 2023, overall, the rule of law and the judiciary in Cabo Verde are up to good international standards, notwithstanding the problems linked to the difficult economic situation.
7. The two policy options as resulting from the 1996 Hague Convention are: a) No objection to an accession; or b) Objection to an accession.

⁴ See Article 58 (3) of the 1996 Hague Convention, which reads as follows: 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 six months after the receipt of the notification referred to in sub-paragraph b of Article 63. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

⁵ According to the information provided by the Depositary:
[007396_Notificaties_82.pdf \(overheid.nl\)](#)

II. SUMMARY OF THE WORKING PARTY IN CIVIL LAW MATTERS DISCUSSIONS AND ITS RECOMMENDATION ON THE ACCESSION OF CABO VERDE

8. The Working Party on Civil Law Matters (General Questions) has discussed the accession of Cabo Verde to the 1996 Hague Convention on 1 and 24 February and 20 March 2023 and did not identify any fundamental issues related to the civil law area which could lead to the need for the European Union to object. The Commission shares the same views.
9. The Working Party on Civil Law Matters (General Questions), therefore, recommends to Coreper that the European Union, through its Member States, should not raise an objection to the accession by Cabo Verde of the 1996 Hague Convention. The absence of an objection will lead to the accession having effect in relations between the European Union, through the intermediary of its Member States, acting in the Union's interest, and Cabo Verde in accordance with Article 58 of the Convention.
10. This recommendation to approve a line to be taken in the case of Cabo Verde 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 1996 Hague Convention.

III. CONCLUSION

In view of the above, the Permanent Representatives Committee is invited:

- to recommend to the Council that the line to be taken by the European Union, through its Member States acting in the interest of the European Union, is not to raise an objection to the accession of Cabo Verde to the 1996 Hague Convention;
 - to decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure that the Council use the written procedure for its approval, given that no Council meeting takes place before 18 April 2023.
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