

APOSTILLE

octobre / October 2012

Projet d'ordre du jour (commenté)
Draft Agenda (annotated)



PROJET D'ORDRE DU JOUR (COMMENTÉ)

proposé par le Bureau Permanent

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DRAFT AGENDA (ANNOTATED)

proposed by the Permanent Bureau

*À l'attention de la Commission spéciale de novembre 2012
sur le fonctionnement pratique de la Convention Apostille*

*For the attention of the Special Commission of November 2012
on the practical operation of the Apostille Convention*

PROJET D'ORDRE DU JOUR (COMMENTÉ)

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DRAFT AGENDA (ANNOTATED)

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DRAFT AGENDA

Sessions start at 9.30 a.m. and end at 6.00 p.m. The first session (6 November) begins at 2.30 p.m. Lunch breaks will be from 1.00-2.30 p.m. Refreshment breaks will normally be from 11.00-11.15 a.m., and 4.00-4.15 p.m.

The draft agenda will be treated with some flexibility and may need to be modified in the light of how discussions progress during the meeting.

A drafting committee will be established early on in the meeting to assist in preparing draft Conclusions & Recommendations, which will be submitted for adoption and discussed on the last day.

ABOUT THE ANNOTATIONS

The annotations in this version of the draft agenda (marked in grey) are designed to inform discussions during the meeting of the Special Commission by referring to material and other developments that relate to the various items on the agenda. References to the draft Apostille Handbook (Prel. Doc. No 2), which will serve as the main reference document, are indicated by "**HB ref.**". References to the Conclusions & Recommendations ("C&R") of the 2009 Special Commission are indicated by "**2009 SC ref.**".

The annotations also include a short summary of responses received from States ("responding States") to the Questionnaire (Prel. Doc. No 1) as they relate to the various items on the agenda. References to the Questionnaire are indicated by "**Questionnaire ref.**". For a compilation of responses received, see the Synopsis of Responses (Prel. Doc. No 3).

The annotations are not intended to exhaustively cover the issues to be discussed, and experts are invited to raise other issues relating to the relevant items on the agenda, in particular those raised in the draft Apostille Handbook.

The text of the draft Apostille Handbook, the C&R of the 2009 Special Commission, and the Synopsis of Responses can be found on the Apostille Section of the Hague Conference website < www.hcch.net > under "Special Commissions".

Tuesday 6 November 2012

Afternoon

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|-----------|--|
| 2.30 p.m. | Opening of the meeting by Mr Paul Vlas, President of the Netherlands Standing Government Committee on Private International Law |
| | Election of the Chair and Vice-Chairs of the Special Commission |
| | Welcome by Mr Hans van Loon, Secretary General |
| | Adoption of the agenda |
| | Presentation of documentation, in particular the draft Apostille Handbook (Prel. Doc. No 2), which will serve as reference document throughout the meeting |

1. EVALUATING AND TAKING STOCK OF THE APOSTILLE CONVENTION

Status of the Apostille Convention, including e-APP

States are invited to report on progress made towards accession and / or towards implementation of the e-APP

Note

2009 SC ref.: C&R No 66.

Questionnaire ref.: qq. 4.1(a) and (b).

- As 30 September 2012, there are 104 Contracting States to the Apostille Convention. Two States have joined the Convention so far in 2012 (Nicaragua and Uruguay). Three States joined in 2011 (Costa Rica, Oman and Uzbekistan). In total, nine States have joined the Convention since the 2009 SC (Costa Rica, Cape Verde, Kyrgyzstan, Mongolia, Nicaragua, Oman, Peru, Uruguay, Uzbekistan).
- Over 140 Competent Authorities from 14 Contracting States have implemented at least one component of the e-APP. This represents an almost 200% increase on the number of e-APP Contracting States at the time of the 2009 SC. For an up-to-date list of Contracting States that have implemented at least one component of the e-APP (including implementation dates), see the "Implementation Chart of the e-APP", available at < http://www.hcch.net/upload/impl_chrt_e.pdf >.
- The vast majority of responding States indicated that the e-APP has been studied. 12 Contracting States reported that they are currently considering implementing both components of the e-APP. Of these, one Contracting State indicated that the e-Register for one of its Competent Authorities will be operational shortly. One State noted that only the e-Apostille component is being considered for implementation while two States advised that only the e-Register component is being considered.
- Based on the statistics provided by responding States, the number of Apostilles issued per year has risen in recent years, after a dip in 2008-9. In 2011, over 4 million Apostilles were issued by 34 Contracting States alone. Many responding States attribute the rise in the number of Apostilles to increased mobility. Other reasons given include the growth in Contracting States, cross-border trade in goods and services, and the imposition of new requirements by some States for certain categories of documents to be apostilled.
- Almost half of the responding States rated the overall operation of the Apostille Convention as "excellent". A few rated it as "satisfactory". The remainder rated the overall operation as "good".
- A number of States identified some persistent difficulties concerning the operation of the Convention. For the most part, these difficulties relate to the issuance and acceptance of Apostilles, which raise legal as well as practical issues. In some cases, the difficulties relate to how the Convention has been implemented in a particular State (e.g., fulfilling the requirements of a multi-step process).
- The difficulties raised by responding States will be addressed under items 1 to 6 and item 9 of the agenda.

Encouraging further accessions: general presentation of the Convention's benefits, short presentations by selected States on reasons for accession, and introduction of the World Bank's *Investing Across Borders* report [tbc]

Note

2009 SC ref.: C&R Nos 66 & 68.

- The 2009 SC strongly recommended that States Parties to the Convention continue to promote the Convention to other States. It also encouraged Member States of the Hague Conference that are not already Party to the Convention to consider actively becoming Party to the Convention. In addition, the 2003 SC and 2009 SC, as well as the 2010 Special Commission on the practical operation of the 1993 Intercountry Adoption Convention, recommended that States that are Party to the 1993 Intercountry Adoption Convention, but not to the Apostille Convention, consider actively becoming Party to the latter.

- Several (Member and non-Member) States are currently considering joining the Convention, with a number actively pursuing accession.
- Based on the responses to the Questionnaire, newly acceding States charge a fee for issuing Apostilles. This is generally seen as a way to recuperate revenue that was previously sourced from performing legalisations. Fees will be addressed under item 4 of the agenda.
- According to the *Investing Across Borders* initiative of the World Bank, being a party to the Apostille Convention increases a State's score in the "ease of establishment" index, which evaluates the characteristics of a State's regulatory regime for business start-up. The results of the last survey of 87 economies around the world are published in the 2010 *Investing Across Borders* report (available as Info. Doc. No 3). The World Bank is continuing its work in this area and is currently preparing a new round of reports focusing on particular regions, countries, and topics.

Report on the status of implementation of the Conclusions & Recommendations of the 2009 Special Commission

Note

- Each year, the Permanent Bureau draws up a report on progress made in implementing the C&R of the 2009 SC. The latest report (March 2012) can be found at <http://www.hcch.net/upload/wop/gap2012pd11en.pdf>.
- Under this item, the Permanent Bureau will provide an oral update on recent progress made in implementing the C&R that require specific action on the part of the Permanent Bureau.
- States will be invited to report on recent progress made in implementing the C&R that require specific action on the part of Contracting States, noting that the subject of some of these C&R will also be addressed under other items of the agenda. Relevant C&R include (with cross-reference to the relevant item on the agenda): C&R No 67 (withdrawing objections, see also item 2 of the agenda); C&R No 79 (one-step vs multi-step process for issuing Apostilles, see also item 3 of the agenda); C&R No 84 (taking steps to deal with instances of fraud or other inappropriate uses of Apostilles, see also item 3 of the agenda); C&R No 85 (use of additional text on Apostilles, see also item 4 of the agenda); and C&R No 89 (development of multilingual Apostille forms, see also item 4 of the agenda).

The "Apostille Section" of the Hague Conference website

Note

HB ref.: para 33.

2009 SC ref.: C&R Nos 70, 71 & 78.

Questionnaire ref.: qq. (i) & 3.1.

- The Apostille Section provides a wealth of useful and up-to-date information on the practical operation of the Convention. Versions of the Apostille Section (with reduced content) are available in Spanish and German.
- The Apostille Section is the most visited of all the specialised sections of the Hague Conference website, with approximately 100,000 hits from 1 January to 30 June 2012.
- The vast majority of responding States found the information provided on the Apostille Section to be "very useful".
- Most suggestions for improvement concern the availability of existing documentation in other languages (namely Spanish and German). At present, a variety of publications on the Apostille Section are available in the Spanish, German and Russian, as follows:

Publication	Spanish	German	Russian
<i>ABCs of Apostilles</i>	Yes	Not yet (translation prepared by Ministry of Justice of Austria – redesign subject to additional resources)	Not yet (translation prepared by Department of State, USA – redesign and finalisation of electronic version subject to additional resources)
<i>Brief Implementation Guide</i>	Yes (redesign subject to additional resources)	No	Part II only (translation prepared in-house – full translation and redesign subject to additional resources)
<i>Text of the Convention</i>	Yes	Yes	Yes
<i>Status chart</i>	Yes	Yes	No
<i>2009 SC C&R</i>	Yes	No	Yes
<i>2003 SC C&R</i>	Yes	No	Yes
<i>C&R of e-APP fora</i>	Only some e-APP fora	No	No

Regional developments

Note **HB ref.:** para 20.

- The European Commission has been preparing a proposal for dispensing with the formalities of legalisation (including apostillisation) of document between Member States. This follows a Green Paper published on 14 December 2010 entitled "Less Bureaucracy for Citizens: Promoting Free Movement of Public Documents and Recognition of the Effects of Civil Status Records". The Permanent Bureau's contribution to the Green Paper is available at < <http://www.hcch.net/upload/00051737.pdf> >.
- In 2005, Law Ministers of the Association of Southeast Asian Nations (ASEAN) agreed to establish a working group to examine modalities for uniform laws on legalisation of foreign public documents. Since then, ASEAN has been working on a treaty for abolishing legalisation between ASEAN Member States.

Opening reception hosted by the Permanent Bureau

Wednesday 7 November 2012

Morning

2. APPLICABILITY OF THE CONVENTION

9.30 a.m.

The notion of “public documents” (general principle and specific cases, incl. treatment of copies, unsigned documents, multiple documents, scanned / electronic documents, etc.)

- Note* **HB ref.:** paras 109 *et seq.* For the general principle, see para. 112. For specific cases, see paras 152 *et seq.*
2009 SC ref.: C&R Nos 72-75.
Questionnaire ref.: q. 6.1. For specific cases, see qq. 6.4-6.6. For most frequently apostilled documents by category, see q. 4.2 (f).
- The categories of public documents for which Apostilles are most frequently requested are (in order) civil status documents, notarial authentications of signature, and diplomas and other education documents.
 - In most responding States, the term “public document” is defined by internal law. Some States indicated that they have encountered difficulties in characterising a document as a “public document”. Problematic categories include translations, copies and company documents.
 - In most responding States, a document may not be apostilled unless it is signed *and* stamped/sealed. Conversely, in some responding States, a public document may be executed without being signed, or without being stamped/sealed.
 - With regard to copies, some responding States indicated that there were circumstances in which an Apostille would be issued for a simple copy. The vast majority of responding States require a copy to be certified. Some responding States issue the Apostille for the certificate, some issue it for the (certified) copy.
 - With regard to translations, some responding States indicated that an Apostille would be issued for a translation that had been executed by a certified or official translator. Of those that would not issue an Apostille, some indicated that the translation can be certified (*e.g.*, by a notary) and an Apostille issued for the certificate. A few States indicated that the Apostille Convention is applicable to simple translations.
 - With regard to documents executed in electronic form, almost half of the responding States indicated that such documents are considered “public documents”. However, the vast majority of these responding States are unable to apostillise these documents in their original form, as they have not yet implemented the e-Apostille component of the e-APP. Some indicated that a paper Apostille could be issued for a paper printout of a document originally executed in electronic form.

Excluded documents

- Note* **HB ref.:** for the basic rule, see paras 134-137. For Art. 1(3)(a) (documents executed by diplomatic or consular agents), see paras 138-144. For Art. 1(3)(b) (administrative documents dealing directly with commercial or customs operations), see paras 145-151 and paras 294-295.
2009 SC ref.: C&R No 77.
Questionnaire ref.: qq. 6.2 & 6.3.
- No responding State indicated that Art. 1(3)(a) has given rise to any difficulties. Conversely, some responding States indicated that Art. 1(3)(b) has given rise to difficulties.

- With regard to documents executed by diplomatic or consular agents, a number of responding States indicated that the Convention applies to documents *handled, but not executed by*, diplomatic or consular agents. Some responding States indicated that the Convention applies to documents executed by consular or diplomatic agents that are *not of a diplomatic or consular nature*.
- With regard to administrative documents dealing directly with commercial or customs operations, a number of responding States indicated that they issue Apostilles for at least some of the documents listed in q. 6.3(b) of the Questionnaire (*i.e.*, certificates of origin, export and import licences, health and safety certificates, certificates of products registration, certificates of conformity, end user certificates and commercial invoices). Some of these States also indicated that they accept Apostilles for these documents, while some others stated that they do not have access to information on the acceptance of foreign Apostilles. It is convenient to recall here that it is for the law of the State of execution to determine the public nature of documents for which Apostilles are issued (C&R No 72 of the 2009 SC).
- The Questionnaire asked States whether the exclusion of administrative documents dealing directly with commercial or customs operations is appropriate. It also asked whether there is a need to develop harmonised practices in applying (or not applying) the Convention to these documents. Not all responding States expressed a view one way or the other. Of those that did, a number indicated their support for applying the Convention to these documents, whereas only a few indicated that the exclusion is appropriate. Some States also indicated their support for developing harmonised practices.
- The Special Commission is the most appropriate forum for developing harmonised practices in respect of the Art. 1(3)(b) exclusion. In this respect, the Special Commission may wish to encourage the approach outlined in the draft Apostille Handbook (para. 295) by which authorities in the State of destination would defer to the judgment of the Competent Authority that issued to Apostille as to whether the underlying document is a public document to which the Convention applies. Alternatively, the Special Commission may wish to determine a list of categories of public document (including those listed in q. 6.3(b) of the Questionnaire) and conclude that the Apostille Convention may be applied to documents falling within these categories.

Documents executed by intergovernmental organisations

Note **HB ref.:** paras 179-180.
2009 SC ref.: C&R No 76.
Questionnaire ref.: q. 4.6.

- A few responding States did not express a position on this issue. Other responding States were fairly evenly split between those that were in favour of allowing the use of Apostilles in relation to documents executed by intergovernmental organisations, and those that were not. One State indicated that issuing Apostilles for such documents is a persistent difficulty.

Other issues of applicability (incl. transitional measures, use of Apostilles in non-Contracting States, objections to accessions, successor States)

Note **HB ref.:** paras 71-108. For transitional measures, see paras 98-102. For use of Apostilles in non-Contracting States, see paras 83-86. For objections to accessions, see paras 91-95. For successor States, see paras 103-108.
2009 SC ref.: for use of Apostilles in non-Contracting States, see C&R No 81. For objections to accessions, see C&R No 67. For successor States, see C&R No 5.
Questionnaire ref.: for objections to accessions, see q. 2.1. For use of Apostilles in non-Contracting States, see q. 7.2(c).

- A few States have raised questions concerning the “intertemporal” operation of the Convention, in particular the request for, and acceptance of, Apostilles issued in one Contracting State before the entry into force of the Convention in the State of destination. These questions are addressed in the draft Apostille Handbook (paras 98-102).
- Based on information obtained from the [status chart](#), 10 Contracting States have raised an objection to an accession. Of these, most have withdrawn their objection to at least one accession. Some responding States indicated that they would revisit their position with respect to objections still standing.
- Objections have been raised to the accession of 12 Contracting States. For one Contracting State, all objections raised to its accession have been subsequently withdrawn.

The obligation to prevent legalisation where the Convention applies

Note **HB ref.:** para 17.
2009 SC ref.: C&R No 69.

Afternoon

3. COMPETENT AUTHORITIES AND ACCESS TO APOSTILLE SERVICES

2.30 p.m.

Designation of Competent Authorities

Note **HB ref.:** para 40. See also paras 24-29 of the *Brief Implementation Guide*, available at < <http://www.hcch.net/upload/guide12e.pdf> >.
2009 SC ref.: C&R No 78.

The role of Competent Authorities (incl. verifying the origin of public documents)

Note **HB ref.:** para 41. See also para 33 of the *Brief Implementation Guide*, available at < <http://www.hcch.net/upload/guide12e.pdf> >. For verifying the origin of public documents, see paras 213-230. For the role of Competent Authorities in combating fraud, see paras 58-62. For possible additional assistance to applicants in situations where an Apostille is not issued, see paras 207-211.

2009 SC ref.: C&R Nos 80 & 83-84.

Questionnaire ref.: for verifying the origin of public documents, see q. 8.1.

- Most responding States indicated that all of their Competent Authorities have access to a database of signatures/stamps/seals that is used to verify the origin of public documents. Based on the responses to the Questionnaire, Competent Authorities tend to maintain their own separate database, which is in electronic form.
- A small number of responding States indicated that some or all of their Competent Authorities do not have access to a database of signatures/stamps/seals. This raises the question as to how the Competent Authorities are able to “assess the genuine character of all documents presented as public documents to the Competent Authorities for the issuance of an Apostille”, as recommended by the 2009 SC (C&R No 83). Admittedly, some of these responding States do not issue many Apostilles (< 2 per day), which may make it feasible for the relevant issuing authority to be contacted directly to verify the origin of each document presented.

Reviewing the delivery of Apostille services (incl. moving towards a one-step process)

Note

HB ref.: para 49. For the one-step process, see paras 14-16.

2009 SC ref.: C&R No 79.

Questionnaire ref.: q. 7.1.

- In most responding States, some categories of public documents are subject to some form of intermediate certification before being issued with an Apostille. In the vast majority of cases, only one intermediate certification is needed. The categories of public document most commonly subjected to such certification include medical certificates, police records and educational documents. The certification is generally performed by an authority that oversees the issuing authority (e.g., responsible ministry or professional body), a centralised point within the issuing agency (e.g., court registry official), or the authorities of the territory in which the document was executed (e.g., local government official).
- In a significant number of responding States, an Apostille may be issued for all public documents without the need for intermediate certification (the so-called "one-step process"). Most of these States have designated multiple Competent Authorities, either according to the category of public document, or the territorial unit in which the public document is executed.
- A small number of responding States indicated that certification is required for all categories of public documents.
- Some responding States indicated that they are planning to make changes to the process of intermediate certification. This follows on from the recommendation of the 2009 SC inviting States Parties to consider removing any unnecessary obstacles to the issuance of Apostilles while maintaining the integrity of authentications (see C&R No 79).

Developing good practices for Competent Authorities (incl. keeping statistics, developing desk instructions, adopting effective delivery methods)

Note

HB ref.: paras 43-57.

Questionnaire ref.: qq. 5.2 & 7.2.

- Most responding States submitted statistics on the number of Apostilles issued and the categories of public documents that are most frequently apostilled. As noted above, over 4 million Apostilles were issued by 34 Contracting States alone in 2011. The categories of public documents for which Apostilles are most frequently requested are (in order) civil status documents, notarial authentications of signature, and diplomas and other education documents.
- Just over half of the responding States indicated that desk instructions have been prepared to assist staff at Competent Authorities in the performance of their functions under the Apostille Convention. Just over half of the responding States also indicated that training is provided to staff at Competent Authorities.
- While most responding States indicated that their Competent Authorities accept requests for Apostilles by post, in addition to in person, one responding State that has implemented the e-APP indicated that its Competent Authority accepts requests by e-mail. Another responding State that has not implemented the e-APP indicated that its Competent Authorities also accept requests by e-mail for certain documents.

4. ISSUING APOSTILLES

Form of the Apostille

Note

HB ref.: paras 243-249.
2009 SC ref.: C&R No 92.
Questionnaire ref.: q. 8.2(a).

- The Permanent Bureau received sample Apostilles from a number of responding States. Based on these samples, the form of Apostilles does vary between Competent Authorities.
- Apostilles issued by Competent Authorities should conform as closely as possible to the Model Apostille Certificate (C&R No 13 of the 2003 SC). To this end, Competent Authorities are encouraged to adopt the multilingual Model Apostille Certificates developed by the Permanent Bureau (see below under "Multilingual model Apostille certificates").

Additional text (outside the area containing the 10 standard informational items)

Note

HB ref.: paras 252-256.
2009 SC ref.: C&R Nos 85 & 86.
Questionnaire ref.: q. 8.4.

- Several responding States indicated that additional information is included on Apostilles issued by their Competent Authorities.
- When additional information is included, it most commonly relates to the limited effect of the Apostille and the e-Register of the Competent Authority (*i.e.*, the elements recommended by the 2009 SC).
- In addition, some Competent Authorities include additional information relating to one or more of the following: the nature or content of the underlying document; the State of destination; the person who requested the Apostille; the fee charged for the Apostille; the digital signature (if any).

Multilingual model Apostille certificates

Note

HB ref.: paras 240-242 & 250-251.
2009 SC ref.: C&R No 89.
Questionnaire ref.: q. 8.2(c).

- Most responding States found the multilingual model Apostille certificates developed by the Permanent Bureau to be useful. Some Competent Authorities have adopted the multilingual model.
- Most of the sample Apostilles received from responding States set out the 10 numbered standard informational items in either two or three languages. In addition to the language of the Competent Authority, English and/or French is commonly used. Some Competent Authorities set out the 10 standard informational items in a single language that is not their language (*e.g.*, English or another language that is the language of the State of destination).
- The Permanent Bureau has so far developed trilingual Apostille certificates in English/French/Spanish, English/French/Arabic, and English/French/German. The Permanent Bureau is able to develop additional model certificates subject to an identified need as well as a verification of the translation by the end-user Competent Authorities.

Completing the Apostille

Note

HB ref.: paras 257-263. For the language of information added, see para. 258. For the non-translation of Apostilles, see paras 311-313.
2009 SC ref.: C&R Nos 88 & 90.
Questionnaire ref.: q. 8.3.

- Most responding States indicated that the 10 numbered standard informational items are filled in using a computer. A significant number of responding States indicated that they are still filled in by hand.
- Most responding States indicated that the 10 standard informational items are filled in using a single language. For the most part, this is the language of the Competent Authority. Some Competent Authorities fill in the items in a single language that is not their language (e.g., English or another language that is the language of the State of destination). A significant number of responding States indicated that the items are filled in in English or French, in addition to the language of the Competent Authority.
- The current Contracting States represent a diversity of languages and writing systems. In view of this, it is relevant to recall that the 2009 SC, keeping in mind that Apostilles are designed to produce effects abroad, encouraged States "to consider that, in addition to a language used by the State of origin, if not English or French, the information in Apostilles also be completed in one of these languages" (see C&R No 90).

Various methods of signing the Apostille (incl. electronic signatures)

Note

HB ref.: paras 260 & 346-348.

Questionnaire ref.: qq. 6.6(d) & 8.3(e).

- Most responding States indicated that Apostille are signed by hand ("wet" signature). Some States indicated that a rubber stamp is used and/or a facsimile signature.
- Most responding States have passed legislation recognising electronic signatures as functionally equivalent of handwritten signatures. Issuing e-Apostilles will be addressed under item 9 of the agenda.

Modes of attachment (particularly multiple-page documents)

Note

HB ref.: paras 264-272.

2009 SC ref.: C&R No 91.

Questionnaire ref.: q. 8.5.

- The responses to the Questionnaire evidence the variety of methods used by Competent Authorities to attach Apostilles. Many States use self-adhesive stickers to place the Apostille directly on the underlying document. When an *allonge* is used, many States still use staples to affix the *allonge* to the underlying document, although some States noted that additional methods are employed to secure the *allonge* to the underlying public document (e.g., by covering the staple with a seal).
- Most responding States indicated that for multiple-page documents, the Apostille is placed on the signature page.

Grounds for refusing to issue Apostilles

Note

HB ref.: paras 203-206.

2009 SC ref.: C&R No 81.

Questionnaire ref.: qq. 7.2(a) & (c).

- A vast majority of States indicated that their Competent Authorities inquire about the State of destination of the public document to be apostilled.
- A majority of responding States advised that any bearer of the document may request an Apostille. Some States indicated that their Competent Authorities require authorisation from the person who intends to use the Apostille.

Fees

Note

HB ref.: paras 273-276.

2009 SC ref.: C&R No 94.

Questionnaire ref.: q. 7.3.

- A vast majority of States indicated that their Competent Authorities charge a fee for issuing Apostilles. Only four responding States indicated that no Competent Authorities charge a fee.
- Based on responses to the Questionnaire, the average amount charged for an Apostille is approximately €15 (US\$19). This is slightly more than the average amount calculated on the basis of responses to the 2008 Questionnaire (€14.15). The most expensive fee reported is €130 (US\$167).
- A majority of responding States reported that the same fee is always charged. Some States advised that the fee differs depending on the applicant, the number of documents to be apostilled, or the type of documents to be apostilled.

Thursday 8 November 2012

Morning

5. REGISTERING APOSTILLES

9.30 a.m. The requirement to register Apostilles

Note

HB ref.: para. 277.

2009 SC ref.: C&R No 95.

Questionnaire ref.: qq. 9.1(a) & (c)-(d).

- All responding States noted that their Competent Authorities keep a record of Apostilles issued.
- Most responding States indicated that their Competent Authorities maintain their own register.
- For the most part, States indicated that the (paper) register of Apostilles is never checked. Conversely, one responding State that maintained an e-Register logged over 2,000 requests since establishing the e-Register in April 2010.

Forms of registers: paper, electronic (for internal use only), e-Registers (*i.e.*, accessible online by recipient of Apostille)

Note

HB ref.: paras 278-282.

Questionnaire ref.: q. 9.1(b).

- Most responding States indicated that the register of Apostilles is maintained in electronic form (as opposed to paper form)
- At present, e-Registers are operated by Competent Authorities in 14 Contracting States. For an up-to-date list of Competent Authorities that operate e-Registers, see the "Implementation Chart of the e-APP", available at < http://www.hcch.net/upload/impl_chrt_e.pdf >.

Contents of Apostille registers

Note

HB ref.: paras 283-284.

Questionnaire ref.: q. 9.1(a).

- Based on the responses to the Questionnaire, some Competent Authorities do not record all of the information that Art. 7(1) of the Convention requires.

6. ACCEPTANCE AND REJECTION OF APOSTILLES IN STATE OF DESTINATION

Valid and invalid grounds for rejecting Apostilles

Note

HB ref.: paras 292-318.

2009 SC ref.: C&R No 92.

Questionnaire ref.: qq. 10.1(a) & 10.2(a).

- A number of responding States indicated that Apostilles issued by their Competent Authorities have been rejected abroad. The most common grounds for rejection relate to the form of the Apostille and modes of attachment.

Non-expiry of Apostilles

Note

HB ref.: paras 28 & 314.

2009 SC ref.: C&R No 87.

Questionnaire ref.: q. 10.2(b).

- Based on the responses to the Questionnaire, very few (if any) States apply a time limit to the effect of an Apostille. Some States do apply time limits to the acceptability of the underlying public document, which may be a set period, or a matter for the discretion of the authorities in the State of destination.

Requests for confirmation of issuance procedures

Note

HB ref.: para. 317.
Questionnaire ref.: q. 10.1(c).

- The Permanent Bureau has been informed of cases where the authorities in a receiving State have requested confirmation from the issuing Competent Authority regarding its procedures for issuing Apostilles. Some of the responding States confirmed that their Competent Authorities have received similar requests.
- Relying on Art. 3(1) of the Convention, the Permanent Bureau strongly discourages Competent Authorities from acceding to such requests. If the recipient of an Apostille wishes to verify its origin, this can be done by contacting the issuing Competent Authority pursuant to Art. 7(2) of the Convention. The inconvenience posed by these cases may be mitigated by Competent Authorities operating an e-Register of Apostilles.

Advice to users and Competent Authorities in dealing with cases of rejection

Note

HB ref.: para. 35.
Questionnaire ref.: q. 10.1(b).

7. TIMING OF THE NEXT SPECIAL COMMISSION MEETING

8. OTHER MATTERS

Afternoon

9. THE ELECTRONIC APOSTILLE PROGRAM (e-APP)

2.30 p.m.

Benefits of the e-APP

Note

HB ref.: paras 327-335.

Outcome of recent e-APP fora (Madrid and Izmir)

Note

See "Conclusions and Recommendations of the Sixth Forum on the e-APP" (Info. Doc. No 1) and "Conclusions and Recommendations of the Seventh Forum on the e-APP" (Info. Doc. No 2). These documents can be found on the Apostille Section of the Hague Conference website < www.hcch.net > under "Special Commissions".

Implementation of the e-APP

Note

HB ref.: paras 336-361.
2009 SC ref.: C&R No 98.
Questionnaire ref.: q. 11.1.

- For an up-to-date list of Competent Authorities that issue e-Apostilles and operate e-Registers, see the "Implementation Chart of the e-APP", available at < http://www.hcch.net/upload/impl_chrt_e.pdf >.
- The majority of responding States indicated that they are not aware of any issues (legal or otherwise) that may affect the implementation of the e-APP.

Issuing e-Apostilles

Note **HB ref.:** paras 233-237.
Questionnaire ref.: qq. 4.2(d), 6.6, 8.3(f) & 8.5(e).

Accepting e-Apostilles

Note **HB ref.:** paras 307-309.
Questionnaire ref.: q. 10.1(a).

Friday 9 November 2012

Morning

10. APOSTILLE HANDBOOK

9.30 a.m. Discussion of remaining topics covered by the draft Apostille Handbook and adoption of the Handbook

11. CONCLUSIONS & RECOMMENDATIONS

Discussion and adoption of Conclusions & Recommendations

End of the Special Commission – the meeting is expected to end at 1.00 p.m.