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Delegations will find attached the partially declassified version of the above-mentioned document.



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NOTE

From: Presidency

To: Working Party on Civil Law Matters (General Questions)

No. prev. doc.: 7745/16

Subject: Special Commission on the Judgments Project, The Hague, 1 to 9 June 2016
- Preparation of the EU position to be taken at the Special Commission

Delegations will find attached a revised version of the EU position to be taken at the Special Commission on the Judgements Project, The Hague, 1 to 9 June 2016 as amended on the basis of discussions at the meeting of the Working Party on Civil Law Matters (General Questions) on 31 May 2016.

As mandated by the Council on General Affairs and Policy of the Hague Conference on Private International Law on 17 March 2016, formal negotiations on the Judgments Project will start at the meeting of the Special Commission on 1 to 9 June 2016.

The draft text of the Judgments Convention is available at <https://assets.hcch.net/docs/06811e9c-dddf-4619-81af-71e8836c8d3e.pdf>. The Permanent Bureau of the Hague Conference prepared an Explanatory Note providing background on the proposed draft text and identifying outstanding issues (available as Preliminary Document No. 2), with the aim to assist the participants in the Special Commission. The Permanent Bureau also prepared an *Aide Memoire* of issues identified by the Working Group (which carried out the preparatory work) for future consideration. The *Aide Memoire* is annexed to this non-paper as Annex I.

The present paper aims at preparing the EU's participation in the Special Commission. It gives more details on the Judgments Project, also with the aim to give a more comprehensive picture on the negotiating mandate to be adopted by the EU Council in the run up to the June meeting. In particular, it points out certain issues raised in relation to the Articles of the draft Convention and gives some suggestions as to the position to be taken by the Union. The paper does not aim to be exhaustive at this stage; other aspects of the draft text of the Convention will certainly come up and will need to be discussed further.

When analysing the draft provisions it has to be recalled that, as indicated in the Report by the Working Group on its last meeting (October 2015), 'in view of the complementary nature of the future Convention and the Choice of Court Convention, the Working Group proceeded on the basis that the starting point for preparing proposals for inclusion in the future Convention should be the corresponding provisions of the Choice of Court Convention, and that there should be a material departure from corresponding provisions of the Choice of Court Convention only where the Group identified a justification for such a difference, having regard to the subject-matter of the proposed instrument.'

I. Relevant background documents

1. The following documents may be interesting in the preparation of the work on the Judgments Project:

- 1971 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters;
- Preliminary Draft Convention on jurisdiction and foreign judgments in civil and commercial matters of 2000 and draft Explanatory Report by Nygh and Pocar, as well as Interim Text of 2001;
- Draft 2005 Convention on the Choice of Court Agreements and Explanatory Report by Hartley and Dogauchi;
- Draft 2007 Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;
- Draft Brussels I Regulation (Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) and the recast Brussels I Regulation (1215/2012);
- Other documents: The American Law Institute proposal on recognition and enforcement of foreign judgments; CLIP (The European Max Planck Group for Conflict of Laws in International Property) principles; Commonwealth Secretariat paper on draft model law on the recognition and enforcement of foreign judgments.

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