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**RÉSUMÉ DES RÉPONSES AU QUESTIONNAIRE D'AOÛT 2008 PORTANT SUR LA
CONVENTION APOSTILLE, AVEC COMMENTAIRES ANALYTIQUES
(RÉSUMÉ ET ANALYSE)**

établi par le Bureau Permanent

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**SUMMARY OF RESPONSES TO THE QUESTIONNAIRE OF AUGUST 2008 RELATING TO THE
APOSTILLE CONVENTION, WITH ANALYTICAL COMMENTS
(SUMMARY AND ANALYSIS DOCUMENT)**

drawn up by the Permanent Bureau

*Document préliminaire No 13 de janvier 2009
à l'intention de la Commission spéciale de février 2009 sur le fonctionnement pratique des
Conventions de La Haye Apostille, Notification, Preuves et Accès à la Justice*

*Preliminary Document No 13 of January 2009
for the attention of the Special Commission of February 2009 on the practical operation of the
Hague Apostille, Service, Evidence and Access to Justice Conventions*

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Summary and Analysis Document (Apostille Convention)

Responses from non-Contracting States and REIO*:

1. Brazil¹
2. Canada
3. Chile
4. China²
5. Dominican Republic³
6. European Community
7. Jordan⁴
8. Malaysia
9. Paraguay
10. Singapore

Responses from Contracting States:

- | | |
|---|---------------------------------|
| 1. Andorra | 21. Lithuania |
| 2. Argentina | 22. Luxembourg |
| 3. Australia | 23. Mexico |
| 4. Belgium | 24. Moldova |
| 5. Bulgaria | 25. Monaco |
| 6. China (Hong Kong Special
Administrative Region) | 26. New Zealand |
| 7. Croatia | 27. Norway |
| 8. Czech Republic | 28. Poland |
| 9. Denmark | 29. Portugal |
| 10. Ecuador | 30. Romania |
| 11. El Salvador | 31. Slovakia |
| 12. Finland | 32. Slovenia |
| 13. France | 33. South Africa |
| 14. Georgia | 34. Spain |
| 15. Germany | 35. Sweden |
| 16. Greece | 36. Switzerland |
| 17. India ⁵ | 37. Turkey |
| 18. Ireland | 38. United Kingdom ⁶ |
| 19. Japan | 39. United States of America |
| 20. Latvia | 40. Venezuela |

* Regional Economic Integration Organisation.

¹ A response was received from Brazil, however the Permanent Bureau was not authorised to make its contents public.

² A response was received from China, however the Permanent Bureau was not authorised to make its contents public.

³ On 12 December 2008, the Dominican Republic deposited its instrument of accession to the Convention.

⁴ A response was received from Jordan, however the Permanent Bureau was not authorised to make its contents public.

⁵ A response was received from India, however the Permanent Bureau was not authorised to make its contents public.

⁶ As per the United Kingdom request, its response was not included in the synopsis nor is it available on the website. Its response has however been taken into account when drafting the summary and analysis document.

Introduction

1. In August 2008 the Permanent Bureau of the Hague Conference on Private International Law issued a Questionnaire to Member States and State Parties to the Hague Apostille Convention,⁷ in preparation for the Special Commission on the practical operation of the Hague Apostille (and Service, Evidence and Access to Justice) Convention to be held in February 2009. This document synthesises and analyses the responses received by the Permanent Bureau before 28 January 2009.⁸

2. The Questionnaire was designed to assist the Permanent Bureau in defining key issues that need to be addressed by the Special Commission. The responses to the Questionnaire will also assist the Permanent Bureau in drafting parts of a Practical Handbook on the Operation of the Apostille Convention in accordance with the recommendation that the 2003 Special Commission made, subject to available resources.⁹ Finally, the responses will assist the Permanent Bureau in its ongoing monitoring of the practical operation of the Apostille Convention and in completing and updating the information provided on the "Apostille Section" of the Hague Conference website.

3. The Permanent Bureau is very grateful to the 49 States (nine non-Contracting States,¹⁰ and 40 Contracting States¹¹) and the European Community that responded to the Questionnaire. Each response was clearly the result of a great deal of careful research and deliberation. Together, the responses provide a snapshot of the operation of the Convention at a level of detail across an international spectrum that has never been assembled before, and could not otherwise have been assembled. This data will be of great assistance to the Special Commission in its deliberations.

Methodology

4. This document follows the structure of the Questionnaire, and seeks to summarise and, where appropriate, comment upon the answers of the responding States. This process of summarisation requires, in large measure, the counting of responses provided by States. This process of counting raises some methodological issues which are dealt with in this section.

5. First, not all responding States responded to each and every question included in the Questionnaire. To accommodate this fact, the discussion of each question refers to the number of responding States that responded to that particular question. The reader will note that the number of responding States varies, therefore, between questions.

⁷ "Questionnaire of August 2008 relating to the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention)", Prel. Doc. No 3 of August 2008 for the attention of the Special Commission of February 2009 on the practical operation of the Hague Apostille, Service, Evidence and Access to Justice Conventions (hereafter "the Questionnaire").

⁸ The responses of individual States are available on the Hague Conference website at < www.hcch.net > under "Apostille Section", "Questionnaires and responses", then "Responses to the 2008 Questionnaire". All responses, including those received after 28 January 2009, have also been collated into a single "Synopsis Document" that is also available on the website: "Synopsis of responses to the Questionnaire of August 2008 relating to the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* (Apostille Convention)", Prel. Doc. No 11 of January 2009 for the attention of the Special Commission of February 2009 on the practical operation of the Hague Apostille, Service, Evidence and Access to Justice Conventions. An earlier version of this document was prepared, incorporating responses received before 5 December 2008.

⁹ Conclusion and Recommendation No 9, Conclusions and Recommendations of the Special Commission of October-November 2003, available at < www.hcch.net > under "Apostille Section" then "Documents related to 2009 Special Commission".

¹⁰ Brazil, Canada, Chile, China, Dominican Republic, Jordan, Malaysia, Paraguay, Singapore.

¹¹ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, India, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

6. Secondly, a number of States often responded to certain questions to the effect that it was not possible for them to provide a response. As it is of little analytical assistance to refer, for each question, to the particular States that were unable to provide an answer, these responses are only reflected in this document where it is relevant to do so. However, where a State has provided such an answer, the State is counted amongst the number of responding States. For this reason, the number of responding States does not always tally with the total number of States that are listed as having provided particular responses to a Question. The States that provided a positive answer are always mentioned expressly in the footnote.

7. Thirdly, some States provided multi-faceted answers to questions that it was relevant to count as falling into more than one category of response. For this additional reason, the total number of responding States does not always tally with the total number of States referred to as providing particular answers. Any confusion can be remedied by consulting the footnotes.

Executive Summary

1. Number of responses

8. The Permanent Bureau received 50 responses (49 from States, and one from a Regional Economic Integration Organisation (REIO)) as at 28 January 2009. Of the total responding States, 40¹² were Contracting States, amounting to 42% of the total number of Contracting States.¹³ In addition, nine non-Contracting States¹⁴ and the European Community also replied to the Questionnaire.

2. Responses of non-Contracting States

9. Four non-Contracting States advised that they are currently studying the Apostille Convention with a view to becoming a State Party, and the Dominican Republic deposited its instrument of accession on 12 December 2008.

3. Responses of Contracting States

10. The responses of Contracting States indicate that use of the Convention is very widespread, and is operating very smoothly with only minor and isolated difficulties.

a) *General appreciation of the Apostille Convention*

11. The Apostille Convention is very well regarded. A clear majority of responding States rated the Convention as "excellent", and all other responding States rated it as "good". Only one state in the United States of America described the operation of the Convention as "satisfactory". States also advised that they had encountered some difficulties with:

- the rejection of valid Apostilles by authorities in some States Parties, and
- the interpretation of the Convention's scope.

b) *"Apostille Section" of the Hague Conference website*

12. Responding States appear to regard the "Apostille Section" of the Hague Conference website very highly, with almost all responding States describing the site as "very useful". Responding States also made a number of very helpful remarks concerning the manner in which the website could be improved, which the Permanent Bureau will take into close consideration.

c) *Price of an Apostille*

13. Responding States provided information concerning the cost of an Apostille. Overall, most responding States charge a low, fixed fee for an Apostille, whilst some other States charge a variable fee determined by factors such as the number of Apostilles sought, the purpose of the Apostille, the nature of the public document, and the urgency of the request. The average fee for an Apostille is around 14.00 Euros.

d) *Statistics*

14. *Number of Apostilles issued.* The Apostille Convention is very highly used, with over 17 million Apostilles issued in the last five years by the 36 States that provided statistics. In 2007 alone, the States that provided statistics issued more than 4.2 million Apostilles. The results showed that Apostilles are most often sought for Civil Status documents, closely followed by notarial attestations of signatures, and university diplomas and other educational documents.

¹² Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, India, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

¹³ As at 12 December 2008 there were 95 Contracting Parties. If one takes into account the accession of the Dominican Republic, the rate of responding Contracting States is over 43%.

¹⁴ Brazil, Canada, Chile, China, Dominican Republic, Jordan, Malaysia, Paraguay, Singapore.

15. *Time taken for issuance.* An Apostille will usually be issued on the same day that it is applied for.

16. *Frequency of register checks.* Most responding States advised that the register of Apostilles maintained by each Competent Authority is very rarely checked.

e) *One-step vs. Multiple-step*

17. A majority of responding States utilise a one-step process for the issuance of most Apostilles; however a significant minority require an applicant to authenticate a public document in several stages (for example, by first taking the public document to a regional authority for preliminary certification) before an Apostille will be issued. Some States advised that they employ multiple-step processes for particular categories of documents (such as diplomas). However, several States indicated that they plan to move towards a one-step process.

f) *Scope of the Convention*

18. Most responding States have not encountered difficulties with the scope of the Convention and the interpretation of the expression “public documents”, but responses indicated that some areas of difficulty include:

- the applicability of the Convention to education documents; and
- the applicability of the Convention to medical documents.

19. The Permanent Bureau has prepared a Preliminary Document discussing the legal and practical issues surrounding the issuance of Apostilles in relation to Diplomas and other Education Documents, and suggesting a number of draft Conclusions and Recommendations for consideration by the Special Commission.¹⁵

20. Responding States also advised that difficulties had arisen with the interpretation of the exclusion in Article 1(3) *b*) of “administrative documents dealing directly with commercial or customs operations”. Many responding States noted the diversity of national practice in respect of this exclusion, and the resultant uncertainty. Several States advised that they issue Apostilles for documents that appear to fall within this exclusion, because other States require them. Responding States also provided information concerning the types of documents that did not fall within this exclusion: responding States unanimously considered that Health and Safety Certificates fall within the scope of the Convention, and by a small majority considered that the following categories of document fall within the Convention’s scope:

- Certificates of Origin;
- Export Licences;
- Import Licences;
- Certificates of Products Registration; and
- Certificates of Conformity.

g) *Original documents and certified documents*

21. A clear majority of responding States will issue an Apostille for a certified copy of a document, with the Apostille operating to authenticate the notarial (or other) certificate attesting that the document is a true copy. A small number of responding States refuse to issue Apostilles for certified copies on the grounds of public policy.

22. Almost all responding States will not issue an Apostille for a simple copy of a document.

¹⁵ “The application of the Apostille Convention to diplomas including those issued by diploma mills”, Prel. Doc. No 5 of December 2008 for the attention of the Special Commission of February 2009 on the practical operation of the Hague Apostille, Service, Evidence and Access to Justice Conventions.

h) Translations of documents

23. Responding States were almost evenly divided on the question whether an Apostille can be issued for a certified translation of a public or private document. Where such an Apostille is issued, in most States the Apostille authenticates the certification of the translation, rather than the translation itself.

i) Practical operational issues

24. *Register of signatures / stamps / seals.* Almost all Competent Authorities within responding States maintain a register of signatures, stamps and seals that is used to verify the authenticity of the signatures, stamps and seals on public documents. Some States use paper registers, other States use electronic registers, and some States use a combination of the two. In almost all responding States, verification is done by a simple visual check, although a few Competent Authorities use electronic means. Where an irregularity is found between the public document and the register, the authority that issued the public document is usually consulted before an Apostille is issued and, where relevant, the register is updated accordingly.

25. *The Apostille Certificate.* Apostille Certificates are usually printed on simple white paper, although a variety of other forms are also used, including self-adhesive stickers and rubber stamps. The Certificates are usually printed with a computer but signed by hand. The Apostille number is usually determined sequentially. Where an *allonge* is used, it is usually attached with staples or ribbons (although other methods are used), and attached to the page containing the signature. Some Competent Authorities add additional information about the nature of an Apostille, which is usually added outside the "box" of the Apostille Certificate.

26. *Rejection of Apostilles for formal reasons.* Some States reported that their Apostilles had been rejected in other States Parties because the Apostille Certificate was different in size, shape, appearance or method of attachment to the practice of the States of Destination. While these reports were not widespread, they are a cause for significant concern. An Apostille should never be rejected for such reasons.¹⁶

27. *Language of the Apostille.* All responding States advised that they comply with the language requirements of the Convention, as summarised in the Questionnaire. Very few responding States, however, have a policy of translating the Apostille into the language of the State of Destination.

28. *Time requirements.* The vast majority of States Parties do not subject foreign Apostilles to time limits regarding validity.

29. *Registers.* All responding States (with the exception of a single Competent Authority) advised that they maintained a register in compliance with Article 7. Most responding States maintain their register in electronic format, although paper registers are still used by many States. Three States advised that they maintain an electronic register that can be consulted online by any interested person. Records stored in registers are generally kept for 10 years or more. Moreover, some responding States retain additional information about the public document beyond that which is required by the Convention.

j) Various scenarios relating to the issuance of Apostilles

30. The Questionnaire included a list of scenarios that raised particular issues relating to the Convention. Responding States were invited to indicate whether they would issue an Apostille. In this document, the Permanent Bureau provides its analysis of each of the scenarios, together with States' responses.

¹⁶ Conclusions and Recommendations Nos 13, 16 and 18 adopted by the Special Commission of 2003.

k) *Specific difficulties encountered with the Convention*

31. Responding States also advised of particular difficulties that they had encountered with the Convention. Responses drew attention to the following difficulties:

- Some States Parties reject Apostilles issued by other States Parties on the basis of the format, appearance or method of attachment of the Apostille, or because of the language in which the Apostille is written.
- The interpretation of Article 1(3) *b*).
- Some States reject Apostilles issued for certified copies of documents.
- The interpretation of the expression “public document”.
- The relationship between the Apostille Convention and other conventions and treaties.
- Time limits imposed by some States on the validity of underlying public documents.

l) *Legalisation of Apostilles*

32. Only one responding State reported an instance where another State Party required that an Apostille be legalised. This practice should, of course, be firmly rejected.¹⁷

m) *The electronic Apostille Pilot Program*

33. The electronic Apostille Pilot Program (e-APP) provides software and assistance for States to issue electronic Apostilles (e-Apostilles), and to maintain electronic registers (e-Registers) of Apostilles that are capable of being consulted over the Internet. Several States have already implemented one or more of the e-APP components. In addition, responses indicate that there is considerable interest in the program, and several States have already decided to implement one or more of the program’s components.

¹⁷ Conclusion and Recommendation No 13 adopted by the Special Commission of 2003.

PART ONE – GENERAL INFORMATION AND STATISTICS (Q. 1–16)

I. Non-Contracting States (Q. 1–3)

34. Nine non-Contracting States responded to the Questionnaire.¹⁸ Non-Contracting States were asked three questions.

35. First, non-Contracting States were asked why they were not a party to the Convention (Q. 1). Singapore advised that its domestic laws did not require that foreign public documents be legalised or otherwise authenticated, but recognised that the Apostille Convention mitigates the cost and expense of the process of legalisation for documents issued in Singapore and to be produced abroad. Paraguay advised that the question whether to join the Convention had never been examined in detail.

36. Non-Contracting States also provided helpful lists of bilateral and multilateral agreements to which they are party that provide rules for abolishing or facilitating the legalisation of foreign public documents (Q. 2). These lists may be found in the individual responses provided by each State, and are not subject to any analysis in this document.

37. Finally, non-Contracting States were asked whether they are currently studying the Apostille Convention, or would envisage studying it, with a view to becoming a State Party in the near future (Q. 3). Of the nine responding States, four¹⁹ advised that they were considering the Convention. The Dominican Republic deposited its instrument of accession on 12 December 2008. Chile advised that it is in the process of conducting a review with a view to becoming a State Party in the near future. The European Community advised that it did not envisage joining the Convention, as all of its Member States have already joined the Convention. One State²⁰ advised that it was not considering acceding to the Convention.

In sum,

- Non-Contracting States provided a variety of reasons why they are not party to the Convention.
- Four non-Contracting States advised that they were studying the Convention, or would consider studying it, with a view to becoming a State Party in the near future.
- One responding State deposited its instrument of accession, bringing the total number of Contracting States to 95.

II. Questions for Contracting States (Q. 4–49)

38. Responses were received from 40²¹ Contracting States, amounting to 42% of the total number of Contracting States.²²

39. Four States prefaced their responses with preliminary remarks. Germany noted that it is a federalised State, and that its constituent *Länder* apply the Convention independently. The responses given by Germany reflect the majority of responses received in a consultation carried out by the Federal Ministry of the interior. In some cases, where consultation showed significant support for more than one option, several options were selected. Norway advised that its answers reflect the experience of the County Governor of Oslo and Akershus, who handles the majority of requests for

¹⁸ Brazil, Canada, Chile, China, Dominican Republic, Jordan, Malaysia, Paraguay, Singapore.

¹⁹ Canada, Chile, Malaysia, Singapore.

²⁰ Paraguay.

²¹ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, India, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

²² As of 12 December 2008 there are 95 Contracting States; see the comment in note 13.

Apostilles in Norway. Sweden noted that it has decentralised the issuance of Apostilles and designated all 250 notaries public as Competent Authorities according to the Convention. The notaries are appointed by the local County Administrative boards. Since the system of issuing Apostilles is decentralised there is no central source of information as to how the individual notaries public complete their tasks in accordance with the Convention. This means that Sweden was not able to answer the detailed questions in the questionnaire. However, as far as Sweden is aware, the system of issuing Apostilles functions well. Sweden is not aware of any complaints or proposals for amending the system from the notaries public or from the local County Administrative boards, nor has Sweden received any information indicating that the notaries public have encountered difficulties in determining the scope of the Convention. Switzerland noted that it has designated Competent Authorities in all 26 cantons, together with the Federal Central Authority. All Central Authorities were asked to provide responses, but not all of them did. Where responses were received, they sometimes indicated contrary positions; the responses of Switzerland may therefore not reflect the practice of all cantons.

A. "Apostille Section" of the Hague Conference website (Q. 4)

40. The "Apostille Section" of the Hague Conference website appears to be very highly regarded. Of the 40 responding States, 35²³ described the "Apostille Section" of the website as "very useful" (Q. 4). The remaining six States²⁴ all described the "Apostille Section" as "useful". No States considered the website to be less than useful.

41. Responding States also provided helpful suggestions for how the website could be improved. Slovakia suggested that the website could benefit by retaining references to old Competent Authorities that are no longer thus designated. It would be useful to retain such references as Apostilles issued by these old Competent Authorities remain valid, and persons wishing to check the validity of these Apostilles may wish to check that the old Competent Authority was once properly designated.

42. Mexico suggested that the website could be improved if information was published in all the languages of the States that are party to the Convention. The Permanent Bureau notes that there are 95 Contacting Parties to the Convention at the time of writing, representing almost all major language groups and a vast array of languages.

43. Similarly, Germany suggested that the website could be improved by being translated into German.

44. Romania considered that the site could be improved by the addition of an "atlas" that could determine the Competent Authorities closest to the applicant, based on the applicant's home or the authority issuing the document. Whilst the Permanent Bureau is not in a position to develop this service itself, it is happy to provide links to relevant websites created by the States themselves, and notes that France already provides such a service, which is available through the "Apostille Section" of the Hague Conference website.²⁵

45. The United States of America considered that the website could be more user-friendly and easier to navigate, noting that it is couched in "high level" language that can sometimes be difficult for front line staff to understand. For example, it is sometimes difficult to follow the terminology used, and to understand the relationship between the Convention documents and the types and status of the parties. It was also suggested that an RSS feed be created to notify of any changes in status for Member States, and it

²³ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Slovenia, South Africa, Spain, Switzerland (half of the cantons), Turkey, United Kingdom, United States of America (half the states), Venezuela.

²⁴ Germany, Mexico, Romania, Slovakia, Switzerland (half of the cantons), United States of America (half the states).

²⁵ See < <http://www.justice.gouv.fr/recherche-juridictions/mapjurid.php> > (last consulted December 2008).

was further suggested that the website could be improved by the addition of a function permitting the user to search by State or province.

In sum,

- The "Apostille Section" of the Hague Conference website is well regarded.
- Responding States made some helpful suggestions to improve the website.

B. Contact details for Contracting States (Q. 5)

46. Responding States also provided useful contact information for their Competent Authorities (Q. 5), which has been updated on the Hague Conference website.

C. Price of an Apostille (Q. 6)

47. Most States issue a charge for an Apostille (Q. 6(a)). Of the 38 responding States, 30²⁶ advised that they charge a fee and eight²⁷ advised that they do not. The following table sets out the fees that are charged.

Table 1 – Price of an Apostille

State	Price 1	Price 2	Price 3	Price 4	Price 5	Average	Euro	USD
Andorra	EUR 8.58					EUR 8.58	€ 8.58	\$ 11.21
Argentina	ARS 39.00					ARS 39.00	€ 8.55	\$ 11.18
Australia	AUD 60.00	AUD 80.00				AUD 70.00	€ 35.11	\$ 45.89
Belgium	EUR 10.00					EUR 10.00	€ 10.00	\$ 13.07
Bulgaria	BGN 2.50					BGN 2.50	€ 1.27	\$ 1.67
Croatia	HRK 30.00	HRK 50.00	HRK 60.00			HRK 46.67	€ 6.33	\$ 8.28
Czech Republic	CZK 100.00					CZK 100.00	€ 3.62	\$ 4.73
Denmark	DKK 165.00					DKK 165.00	€ 22.15	\$ 28.92
Ecuador	USD 10.00					USD 10.00	€ 7.65	\$ 10.00
Finland	EUR 9.00					EUR 9.00	€ 9.00	\$ 11.75
Georgia	GEL 20.00					GEL 20.00	€ 9.20	\$ 12.01
Germany	EUR 10.00	EUR 130.00				EUR 70.00	€ 70.00	\$ 91.44
Hong Kong	HKD 125.00					HKD 125.00	€ 12.33	\$ 16.12
Ireland	EUR 20.00	EUR 50.00	EUR 10.00			EUR 26.67	€ 26.67	\$ 34.84
Latvia	LVL 1.50	LVL 3.00	LVL 5.00	LVL 10.00	LVL 20.00	LVL 7.90	€ 11.24	\$ 14.68
Lithuania	LTL 35.00					LTL 35.00	€ 10.13	\$ 13.25
Luxembourg	EUR 5.00					EUR 5.00	€ 5.00	\$ 6.53
Mexico	MXN 499.00					MXN 499.00	€ 27.16	\$ 35.52
Moldova	MDL 100.00	MDL 50.00				MDL 75.00	€ 5.43	\$ 7.10
Monaco	EUR 2.50					EUR 2.50	€ 2.50	\$ 3.27
New Zealand	NZD 40.00	NZD 15.00				NZD 27.50	€ 10.88	\$ 14.24
Poland	PLN 60.00					PLN 60.00	€ 13.72	\$ 17.95
Romania	RON 25.00	RON 45.00	RON 4.00			RON 24.67	€ 5.81	\$ 7.60
Slovakia	SKK 200.00					SKK 200.00	€ 6.63	\$ 8.68

²⁶ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, Finland, Georgia, Germany, Ireland, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Poland, Romania, Slovakia, Slovenia, Spain, Switzerland, United Kingdom, United States of America, Venezuela.

²⁷ El Salvador, France, Greece, Japan, Norway, Portugal, South Africa, Turkey.

State	Price 1	Price 2	Price 3	Price 4	Price 5	Average	Euro	USD
Slovenia	EUR 1.06	EUR 2.46	EUR 5.00			EUR 2.84	€ 2.84	\$ 3.71
Spain	EUR 3.50	EUR 7.50				EUR 5.50	€ 5.50	\$ 7.20
Switzerland	CHF 15.00	CHF 30.00				CHF 22.50	€ 14.94	\$ 19.54
United Kingdom	GBP 27.00	GBP 67.00				GBP 47.00	€ 51.31	\$ 67.12
United States	USD 8.00	USD 10.00				USD 9.00	€ 6.87	\$ 9.00
Venezuela	1.5 Tax units by document							
						Average	€ 14.15	\$ 18.50

48. The majority of responding States always charge the same amount for an Apostille (Q. 6(b)). Of the 38 responding States, 24²⁸ advised that the cost of an Apostille is always the same, six²⁹ advised that the amount differs depending upon who requested the Apostille, four³⁰ advised that the amount differs when a series of Apostilles is requested by the same person for various documents at the same time, four³¹ advised that the amount varies depending upon the type of public document, one US state advised that the amount differs depending upon the length of the public document, and Latvia advised that the amount depends upon the urgency.

In sum

- Most responding States charge a fixed fee for the issuance of an Apostille.
- The cost of an Apostille is generally low, with the average fee being around 14 Euros.
- Some States vary the cost of an Apostille depending upon various factors including:
 - the number of Apostilles sought;
 - whether the applicant is a natural or legal person;
 - whether the applicant's purpose is commercial or private;
 - the nature or length of the public document;
 - the urgency of the request.

D. Statistics (Q. 7–10)

49. Some responding States provided useful statistical information relating to the operation of the Apostille Convention. While some States noted that their data was incomplete, the data provided nevertheless permits some useful conclusions to be drawn concerning the operation of the Convention.

²⁸ Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, Finland, Georgia, Ireland, Lithuania, Luxembourg, Mexico, Monaco, Poland, Romania, Slovakia, Slovenia, Switzerland, United Kingdom (noting, however, that different fees exist for standard and premium service), United States of America (29 states), Venezuela.

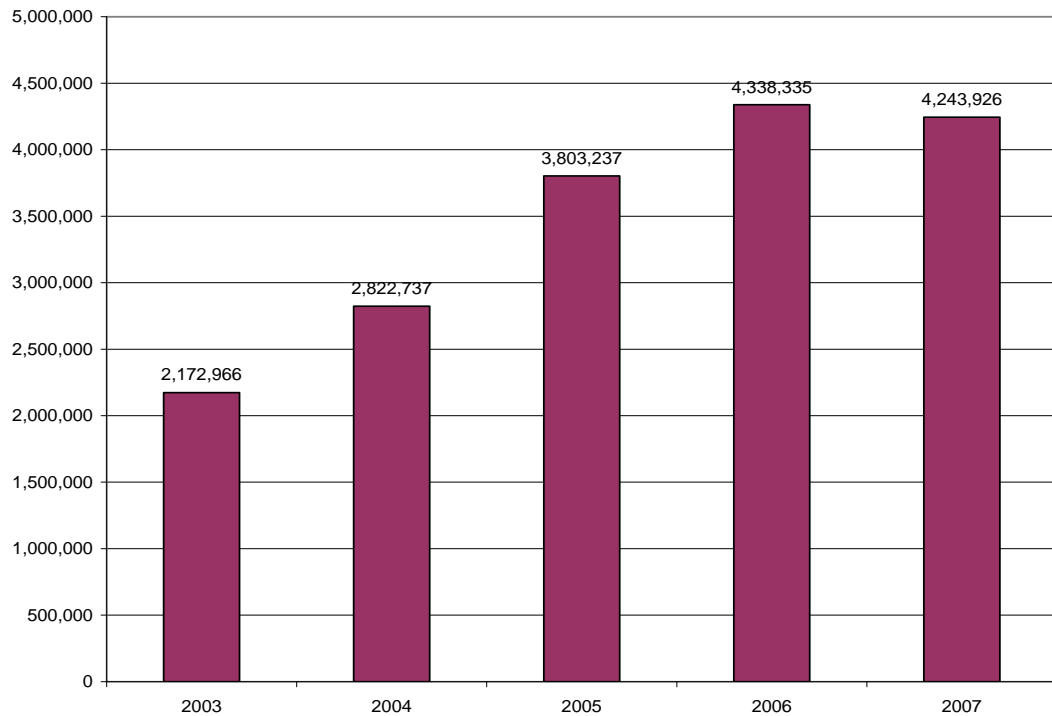
²⁹ Andorra, Latvia, Moldova, Romania, Switzerland, United States of America (two states).

³⁰ Ireland, New Zealand, Switzerland, United States of America (two states).

³¹ Germany, Romania, Switzerland, United States of America (several states).

Issuing of Apostilles (Q. 7–8)

Figure 1: Total Apostilles issued between 2003 and 2007



50. Thirty-six States³² provided statistics relating to their Apostille issuance (Q. 8). Many States broke these statistics down into individual Competent Authorities, however for the purposes of statistical analysis in this document, total figures have been used. In 2007 these 36 States issued over 4 million Apostilles (4,243,926 in total). In the five years since the last Special Commission (between 2003 and 2007) these States issued over 17 million Apostilles (17,381,201 in total). Despite the slightly decreased number of Apostilles issued in 2007, as shown in the chart above, the Permanent Bureau has reason to believe that the increase in issuance of Apostilles is a continuing trend based both on the statistics provided by belated responses not included in this summary, and the fact that 18 States³³ have ratified or acceded to the Apostille Convention since 2003.

51. States were asked which category of documents they most commonly issued Apostilles for. Thirty-six States³⁴ responded and 17 States³⁵ advised that civil status documents (birth, death and marriage certificates) and certificates of non-impediment were the most commonly issued documents. A further 11 States³⁶ advised this was their

³² Andorra, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, India, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland, Turkey, United Kingdom, United States of America. Although the responses of India and the United Kingdom were not authorised for uploading onto the Hague Conference website, the chart above contains the statistical information provided by these States given that no reference is made to the Apostilles issued in a specific State but only provides a general overview.

³³ Albania, Azerbaijan, Cook Islands, Denmark, Dominican Republic, Ecuador, Georgia, Honduras, Iceland, India, Republic of Korea, Moldova, Montenegro, Poland, Sao Tome and Principe, Serbia, Ukraine, Vanuatu.

³⁴ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United States of America, Venezuela.

³⁵ Argentina, Czech Republic (Ministry of Foreign Affairs), Denmark, Ecuador, El Salvador, Georgia, Greece, Latvia, Lithuania, Moldova, New Zealand, Norway, Poland, Portugal, Romania, Spain, United States of America.

³⁶ Andorra, Australia, Finland, France, Germany, Ireland, Japan, Monaco, Slovenia, Switzerland, Venezuela.

second most commonly requested category of document. Fourteen States³⁷ advised that notarial authentications of signatures were their most commonly requested category of documents. Four States³⁸ advised that diplomas and other education documents were the most commonly requested category, and six States³⁹ indicated they were the second most commonly requested category. The other categories of documents available as an option included: other notarial acts, extracts from registers, court documents including judgments, administrative documents, intellectual property documents, and adoption documents. A wide variety of other documents were reported, but very rarely constituted even the third or fourth most commonly requested category of document. These other documents included:

- o Health / Sanitary documents (x9)
- o Police / Penal records (x9)
- o Translations (x4)
- o Other attestations, declarations (x2)
- o Residency / Immigration documents (x2)
- o Documents related to the control of illicit substances (x1)
- o Registration cards / Copies of ID cards and passports (x2)
- o Veterinary certificates (x1)
- o Tax and social security documents (x1)

In sum,

- The 36 responding States issued over 4 million Apostilles in 2007 (4,243,926 in total).
- These States issued over 17 million Apostilles between 2003 and 2007 (17,381,201 in total).
- The categories of document most commonly presented for an Apostille are civil status documents, closely followed by notarial authentications of signatures and diplomas or other education documents.

Time (Q. 9)

52. Of the 34 responding States, 13⁴⁰ advised that the average time to issue an Apostille is less than one hour. Fifteen States⁴¹ advised that an Apostille will be issued on the same day, and a further 16 States⁴² advised the following working day. Seven States⁴³ advised that the issuance of an Apostille usually takes a week. No State advised that an Apostille ordinarily takes more than one week, although Slovakia and France noted that a postal request may take this long.

³⁷ Australia, Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic (Ministry of Justice), Denmark, Finland, Germany, Ireland, Luxembourg, Monaco, Slovakia, Slovenia, Switzerland.

³⁸ Andorra, Denmark, Greece, Mexico.

³⁹ Czech Republic (Ministry of Foreign Affairs), Ecuador, El Salvador, Poland, Slovakia, Turkey.

⁴⁰ Belgium, Czech Republic, Denmark, Ecuador, Finland, Ireland, Norway, Poland, Slovenia, Switzerland (most cantons), Turkey, United Kingdom (premium service – for business customers only, not available to general public), United States of America (seven states).

⁴¹ Argentina, Croatia, El Salvador, France, Germany, Greece, Ireland, Lithuania, Luxembourg, Mexico, New Zealand, Romania, Slovakia, South Africa, United States of America (12 states). Also, United Kingdom standard service which uses special delivery post.

⁴² Andorra, Bulgaria, France, Germany, Japan, Lithuania, Luxembourg, Moldova, Monaco, Portugal, Romania, Spain, Switzerland, United States of America (nine states), Venezuela. Also, United Kingdom standard service for business customers.

⁴³ Australia, China (Hong Kong SAR) (two business days), Georgia (five business days), Ireland, Latvia, Switzerland (one canton), United States of America (five states). Also, the postal service offered by the United Kingdom which uses normal post.

Verification of an Apostille in the Register (Q. 10)

53. Verification of the register appears to occur very infrequently (Q. 10). Of the 37 responding States, 18⁴⁴ advised that the register is never checked; nine States⁴⁵ advised that the register is checked once per year; seven States,⁴⁶ twice per year; six States,⁴⁷ three to five times per year; and five States⁴⁸ advised that the register is checked five to 10 times per year. Greece advised that the register is checked only rarely, and Spain advised that in 2007 the register had only been checked by some authorities of the Russian Federation.

In sum,

- In most responding States an Apostille will be issued on the same day that it is sought.
- Verification of the register of Apostilles appears to occur very rarely in responding States.

E. General appreciation of the Apostille Convention (Q. 11)

54. The Convention appears to be very well regarded (Q. 11). Of the 37 responding States, 27⁴⁹ rated the operation of the Convention as "excellent", 14⁵⁰ rated the Convention's operation as "good", and one state in the United States of America described the Convention as "satisfactory".

55. Andorra noted that it had encountered difficulties with Apostilles that differ notably from the Model Form.

56. Australia advised that it had encountered difficulties with the interpretation of the expression "public document".

57. Germany and Greece advised that a Practical Handbook would be of assistance. Greece also considered that it would be useful for the Conclusions and Recommendations of the Special Commission to be distributed to Competent Authorities, and for an additional item to be added to the Apostille Certificate to indicate the State of Destination.

58. Monaco noted that it had experienced some difficulties with some States that insist that Apostilles be accompanied by further formalities that are not required by the Convention. Difficulties were also experienced with the format of some documents upon which an Apostille or *allonge* could be placed. Difficulties arose with some States of Production that refused to accept certified copies.

59. Slovakia noted that some persons do not have access to the Hague Conference website due to language barriers. Accordingly, some persons at embassies in Bratislava are poorly informed of the current Slovakian Competent Authorities.

⁴⁴ Australia, Denmark, El Salvador, France (most competent authorities), Georgia, Germany, Japan, Luxembourg, Mexico, Monaco, Norway, Poland, Portugal, Romania, Slovakia, Switzerland (majority of cantons), Turkey, United States of America (63% of states). Slovakia noted, however, that requests for verification of Apostilles for diplomas are received by the Ministry of Education three to five times a year.

⁴⁵ Andorra, Bulgaria, Croatia, Czech Republic, Germany, Romania, Slovenia, South Africa, United States of America (18% of states).

⁴⁶ Ireland, Latvia, Lithuania, Portugal, Romania, United States of America (9% of states), Venezuela.

⁴⁷ China (Hong Kong SAR), Ecuador, Finland, New Zealand, Switzerland (some cantons), United States of America (two states).

⁴⁸ Argentina, Belgium, Moldova, United Kingdom, United States of America (one state).

⁴⁹ Argentina, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, New Zealand, Norway, Poland, Portugal, Slovenia, Spain, Switzerland (half of the cantons), Turkey, United States of America (60% of states), Venezuela.

⁵⁰ Andorra, Australia, Bulgaria, Finland, Germany, Greece, Luxembourg, Monaco, Romania, Slovakia, South Africa, Switzerland (half of the cantons), United Kingdom, United States of America (38% of states).

60. Switzerland noted that some difficulties had been experienced with some foreign States complaining about the language in which Swiss Apostilles are issued, despite the fact that the Apostilles complied with the language requirements of Article 4. In certain other cases, Apostilles have been rejected.

61. The United Kingdom noted that it has experienced some issues with the interpretation and implementation of the Convention. For example, on one occasion legalisation was requested for a document destined for use in a State Party notwithstanding the presence of an Apostille.

62. The United States of America noted that some other States object to the manner in which the Apostille is attached to the underlying public document despite the Conclusions and Recommendations of the 2003 Special Commission. It was also noted that the status table on the Hague Conference website can be confusing. Finally, it was suggested that guidelines on the retention of records would be useful.

In sum,

- The Apostille Convention is very well regarded.
- Some States Parties have encountered difficulties with the rejection of Apostilles by other States Parties, and with the interpretation of the Convention's scope.

F. Case law and reference work (Q. 12–16)

63. States Parties provided useful information relating to guides or practical information on the Convention (Q. 12), decisions rendered on the Convention (Q. 13),⁵¹ references to books and articles on the Convention (Q. 14), domestic legislation implementing the Convention (Q. 15) and other bilateral and multilateral agreements that provide rules for abolishing the requirement for full legalisation of foreign public documents (Q. 16). This data is recorded in the individual responses of States, and some are collated in the Synopsis document.⁵² They are not analysed in this document.

⁵¹ Decisions were rendered in China (Hong Kong SAR), Slovakia, Switzerland and the United States of America.

⁵² See Synopsis of Responses, Prel. Doc. No 11 (*op. cit.*, note 8).

PART TWO – SUBSTANTIVE ISSUES (Q. 17–27)

A. Process leading to the issuance of an Apostille: One step vs. Multiple steps (Q. 17–18)

64. The process leading to the issuance of an Apostille is not uniform in all States. There seem to be two basic models. Under the first model, the Apostille system replaces any other process or formality in relation to the authentication of public documents. In other words, there is no prior or intermediate certification, authentication, legalisation or formality of any kind,⁵³ and public documents may be presented directly to the relevant Competent Authority for authentication with an Apostille. The single-step model is the ultimate goal of the Apostille Convention,⁵⁴ *i.e.*, that the applicant need only visit a single authority (a “one-stop shop”) in order to obtain an Apostille. If internal processes are introduced into the authentication process, these are acceptable so long as the applicant does not need to visit more than one authority.

65. Under the second model, public documents (or at least some categories of public documents) are first subject to a certification by an intermediate authority(ies) (*e.g.*, the head of a professional association or a regional authentication authority) that has (have) the actual means to verify the signature, seal and / or stamp on the public document. The certified public document is then presented to the relevant Competent Authority. An Apostille issued by that Competent Authority authenticates the intermediate certificate, not the underlying public document itself. The public document is eventually produced abroad with the intermediate certificate as well as the Apostille which authenticates that intermediate certificate.

66. The responses to the Questionnaire indicate that a majority of States operate a single-step process (Q. 17). Of the 37 responding States, 28⁵⁵ advised that they use a one-step system, although 10 of these States⁵⁶ also advised that they use a multiple-step process for some categories of documents. Nine States⁵⁷ advised that they only have a multiple-step process in place.

67. Some responding States⁵⁸ specified the particular types of documents that are required to go through a multi-step process (Q. 17(a)). Andorra specified that a multi-step process is used for diplomas, and marriage and birth certificates. Argentina advised that most documents would be required to go through several steps to create a chain of signatures, which process is used for diplomas, notarial records, legality certificates, health certificates, and judicial documents. The Czech Republic specified that it implements a multi-step process for civil status documents, diplomas and education documents, and administrative documents. Ireland specified that it has a multi-step process for documents relating to adoption, commercial documents, certificates of free sale, powers of attorney, affidavits, incorporation papers and other legal documents, and copies of diplomas and other educational documents. Germany advised that the process

⁵³ The terminology used in this respect varies greatly among States – for the sake of brevity, this section of the document uses the word *certification* as an all-inclusive expression.

⁵⁴ “Simplification cannot be envisaged unless legalisation is reduced to a single-step formality.” *La légalisation des actes officiels étrangers*, Report by G.A.L. Droz, Secretary at the Permanent Bureau, Prel. Doc. No 1 of March 1959, p. 32 (Chapter III), available on the “Apostille Section” of the Hague Conference website [in French only – the above was translated by the Permanent Bureau]. For more information, see the comments relating to Questions 17 and 18 in the Apostille Questionnaire.

⁵⁵ Australia, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland (half of the cantons), Turkey, United Kingdom, United States of America (25 states).

⁵⁶ Czech Republic, Germany, Greece, Ireland, Latvia, Romania, Switzerland, Turkey, United Kingdom, United States of America (five states).

⁵⁷ Andorra, Argentina, Belgium, Ecuador, El Salvador, Japan, Poland, South Africa, Venezuela.

⁵⁸ Argentina, Czech Republic, El Salvador, Germany, Greece, Japan, Ireland, Latvia, Romania, Switzerland, Turkey, United States of America (three states), Venezuela.

is used in some *Länder* for education documents and notarial deeds. Greece advised that the process is used for social security documents, medical documents, police documents, and university documents. Japan advised that a multi-stage process is used for documents issued by a registrar or notary. Latvia advised that such a process is used for registry documents, medical documents, some education documents, and judgments. Romania specified that a multi-step process is used for education documents, medical certificates, professional certificates, employment documents, judgments, deeds, and original acts. Switzerland advised that about half the cantons use a multi-step process for documents other than those signed by a notary, cantonal or communal official. Turkey advised that it mainly uses a single-step process, but that a multi-step process is used for medical documents and some education documents. These States also gave details of the organisations through which the multi-step process must pass.

68. Responding States provided reasons why they use a multi-step process (Q. 17(c)). Twelve States⁵⁹ explained that they have designated one single (central) Competent Authority, but the signatures, seals and stamps of local officials and authorities are subject to a certification by a regional authority, whose certificate is in turn subject to an Apostille issued by the Competent Authority. A further seven States⁶⁰ explained that they have designated several Competent Authorities, however the signatures, seals and stamps of local officials and authorities are nonetheless subject to a certification by a regional authority, whose certificate is in turn subject to an Apostille issued by the relevant Competent Authority. In each case, the goal is to ensure that the Competent Authorities are only requested to deal with a limited number of signatures, seals and stamps whose origin they are able to authenticate.

69. Nine States⁶¹ advised that they have a special, multi-step procedure for the authentication of diplomas and other education documents.⁶² El Salvador specified that diplomas and education documents must be first authenticated by the Ministry of Education before an Apostille will be issued. Ireland explained that an Apostille will only be issued for awards that fall within the Framework of Qualifications established by the National Qualifications Authority of Ireland, and that a copy of a degree must first be notarised. Portugal advised that it had a single-step process for educational documents issued by public schools and universities, but that documents issued by private schools and universities require the approval of either the Department of Basic and Secondary Education, or the Department of Higher Education, as appropriate. The United Kingdom advised that all educational documents must be signed by a notary or solicitor, and will only be apostilled if the educational establishment is contained on a specified list. Venezuela specified that the document must first be certified by the Ministry of Education.

70. Responding States were also asked whether they would consider changing from a multi-step process to a single-step process (Q. 18). Of the 19 responding States to which the Question applied, 12 States⁶³ advised that they intend to retain a multi-step system. Andorra and Ecuador explained that their system is the best way to guarantee that the documents are trustworthy, and South Africa advised that the reason was to prevent fraud and corruption. El Salvador noted that it had simplified the chain of authorisations,

⁵⁹ Argentina, Belgium, Ecuador, Ireland, Japan, Latvia, Mexico, Poland, South Africa, Switzerland, United States of America (three states), Venezuela.

⁶⁰ Czech Republic, Germany, Ireland, Romania, Turkey, Switzerland (half of the cantons), United States of America (two states).

⁶¹ Andorra, Belgium, El Salvador, Ireland, Portugal, Switzerland, United Kingdom, United States of America, Venezuela.

⁶² For more information on the procedures used by States in issuing Apostilles in relation to education documents, see Prel. Doc. No 5 (*op. cit.*, note 15).

⁶³ Andorra, Argentina, Ecuador, El Salvador, Germany, Ireland, Poland, Romania, South Africa, Switzerland (majority of cantons), Turkey, United States of America (one state).

but did not envisage a single-step process, especially when dealing with notarised documents. Germany advised that it considered that its system worked well, and that it would be difficult to collect specimens of all signatures. Germany also noted that the Competent Authority does not always know the competence of all officials issuing public documents.⁶⁴ Romania also noted that it was streamlining some of its procedures, but that the multi-step system was useful to guarantee the authenticity of the document. Switzerland noted that such a change in some cantons would require a revision of basic cantonal law and organisation.

71. Nine States⁶⁵ advised that they were considering changing to a single-step procedure. The Czech Republic noted that its goal is to increase the number of Competent Authorities, and Latvia advised that it aims to have a single-step process for all public documents where possible. Japan noted that in recent years, in order to increase convenience for the applicants and expedite the whole process, a system has been implemented at some metropolitan notary public offices which receive relatively large number of applications, whereby an applicant is able to obtain not only a notarised deed but also, at the same time, the certification by the Director-General of the Legal Affairs Bureau of the seal of notary public and an Apostille. Japan has achieved good results with this system.

In sum,

- A majority of responding States use a single-step process for the issuance of Apostilles for most categories of documents.
- Many responding States have in place a multiple-step process for some categories of document, including educational documents.
- Nine States advised that they are considering changing multiple-step processes into single-step processes to further streamline the issuance of Apostilles.

B. Scope of the Apostille Convention (Q. 19–23)

72. A majority of responding States reported that they have not encountered difficulties in determining the substantive scope of the Apostille Convention, *i.e.*, in characterising a document as a public document or not (Q. 19). Of the 37 responding States, 29⁶⁶ advised that they had encountered no such difficulties; while 12 States⁶⁷ advised that they had.

73. Of the States that had encountered difficulties, the Czech Republic advised that it had encountered difficulties with the requirement in some States that translations of public documents be authenticated. But such a translation is not considered a public document in the Czech Republic, and cannot therefore be apostilled. This problem is solved by legalisation of the translation.

74. Finland and New Zealand advised that they have ongoing difficulties with education documents. New Zealand specified that although it is possible to verify the seals and signatures on academic documents issued by the Ministry of Education or the New Zealand Qualifications Authority, it is not possible to do so for all documents issued by

⁶⁴ The Permanent Bureau notes that the Apostille Certificate merely verifies the signature of the official who executed the public document and the office that person occupies. The Apostille does not verify that the official was competent to execute the document.

⁶⁵ Belgium, Czech Republic, Greece, Japan, Latvia, Mexico, Switzerland (some cantons), United States of America (three states), Venezuela.

⁶⁶ Andorra, Argentina, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Denmark, Ecuador, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Norway, Poland, Portugal, Slovakia, Slovenia, South Africa, Spain, Switzerland (great majority of cantons), Turkey, United States of America (27 states), Venezuela.

⁶⁷ Australia, Czech Republic, El Salvador, Finland, Germany, Greece, Monaco, New Zealand, Romania, Switzerland (small number of cantons), United Kingdom, United States of America (three states).

schools, universities and other educational institutions, which must first be notarised. The difficulty is that some of these other organisations are private.⁶⁸

75. Germany advised that it had encountered difficulties with translations, which were solved by certifying the translator's signature, thereby making the document a public document.

76. Greece advised that it had encountered difficulties with documents certified by private individuals.

77. New Zealand also noted that it receives and issues Apostilles for administrative documents dealing directly with commercial or customs operations, because exporters are required to submit such documents to certain States, despite New Zealand's understanding that such documents are not public documents under the Convention. El Salvador made a similar remark.

78. El Salvador also advised that it had encountered difficulties with certified copies of foreign documents, and translated documents.

79. Monaco advised that it had difficulty with, for example, a company's articles of association, and with powers granted to a lawyer. These documents are certified by a notary who legalises the signature without verifying the contents of the document. Accordingly, only the signature of the notary is authenticated by the Apostille.

80. Romania advised that it was unclear whether certain types of medical documents were public documents.

81. Switzerland advised that a very small number of cantons had indicated that they had encountered difficulties determining whether simple copies and documents issued by private organisations fell within the Convention's scope.

82. The United States of America advised that it had encountered problems with fraudulent documents purporting to grant ambassadorial status, and with incompletely notarised or certified documents.

83. Despite these difficulties, few States reported that they had ever, as the State of Destination, rejected an Apostille on the basis that the underlying document was not a public document (Q. 20). Of the 35 responding States, 29⁶⁹ reported that they had not rejected an Apostille on this basis. Ecuador alone advised that it had rejected a document on this basis, which occurred in respect of documents that had been authenticated by foreign notaries. Four States⁷⁰ advised that they had no information available on this question, as the decision whether to reject an Apostille is taken by many individual authorities and no integrated information is available. Switzerland also advised that its response may be incomplete for this reason.

84. Similarly, few States advised that they had encountered difficulties with the Article 1(3) a) exclusion of "documents executed by diplomatic or consular agents" (Q. 21). Of the 33 responding States, 29⁷¹ advised that they had encountered no difficulties with this provision; five States⁷² advised that they had. Andorra noted that some States will not issue a visa without apostilled consular documents. Ecuador noted that some consular agents of other States in Ecuador will not legalise commercial documents. New Zealand noted that while it does not often receive documents executed

⁶⁸ These issues are addressed in greater detail in Prel. Doc. No 5 (*op. cit.*, note 15).

⁶⁹ Andorra, Argentina, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, Finland, France, Georgia, Germany, Ireland, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Poland, Slovakia, Slovenia, South Africa, Switzerland (majority of cantons), Turkey, United Kingdom, United States of America, Venezuela.

⁷⁰ Australia, Japan, Romania, Switzerland.

⁷¹ Argentina, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, El Salvador, Finland, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Switzerland, United States of America (26 states), Venezuela.

⁷² Andorra, Ecuador, New Zealand, United Kingdom, United States of America.

by its own consular agents, it has received on several occasions documents that have been certified by a consular agent – often as the applicant is overseas and unable to sign a document in front of a notary public in New Zealand. From time to time New Zealand also receives a birth or marriage registration for a New Zealand citizen who was born or married overseas and had that event registered with a New Zealand consular agent – and then expected they could use the resulting certificate as if it were a birth or marriage certificate issued in New Zealand. New Zealand advised that its understanding of the Convention is that it cannot attach an Apostille to these documents. The United Kingdom noted that prior to August 2008 certain non-Contracting States requested the United Kingdom to act as a “middleman” between them and States in which they had no representation. This practice has ceased, following conversations with the Permanent Bureau, and a solution has been found for documents signed by United Kingdom diplomats overseas.

85. More States advised that they had encountered problems with the Article 1(3) *b*) exclusion of “administrative documents dealing directly with commercial or customs operations” (Q. 22). Of the 33 responding States, 25⁷³ advised they had not encountered difficulties with this expression, but eight States⁷⁴ advised that they had. Ecuador noted that some persons expected the Convention would be applied to such documents. El Salvador noted that it had had difficulties with such documents, but had recently taken part in a productive discussion during a regional meeting with the Permanent Bureau, and Apostilles are now issued for documents of this character. Georgia noted the diverse practice of States in this regard. Monaco advised that it had encountered difficulties with the authentication of vehicle registration certificates and drivers licences for the purchase of a vehicle abroad. It is unclear whether such documents fall within this exception. South Africa noted that it has encountered difficulties with fraudulent documents. The United Kingdom noted that many States require such documents to be authenticated and so such documents are legalised in order not to hinder the commercial process.

86. Responding States also expressed their view upon whether they would regard certain specific classes of documents as “public documents” for the purposes of the Convention (Q. 23). Answers were provided in respect of the following categories:

- **Certificates of Origin.** Twenty States⁷⁵ advised that they consider that Certificates of Origin fall within the scope of the Convention.
- **Export Licences.** Sixteen States⁷⁶ advised that they consider that Export Licences fall within the scope of the Convention.
- **Import Licences.** Sixteen States⁷⁷ advised that they consider that Import Licences fall within the scope of the Convention.
- **Health and Safety Certificates.** Twenty-six States⁷⁸ advised that they consider that Health and Safety Certificates fall within the scope of the Convention.

⁷³ Andorra, Argentina, Australia, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Finland, France, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Moldova, Poland, Portugal, Romania, Slovakia, Slovenia, Switzerland, Turkey, United States of America (27 states), Venezuela.

⁷⁴ Belgium, Ecuador, El Salvador, Georgia, Monaco, South Africa, United Kingdom, United States of America (two states).

⁷⁵ Belgium, Bulgaria, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Ireland, Latvia, Luxembourg, Mexico, New Zealand, Norway, Poland, Portugal, Switzerland, United Kingdom, United States of America, Venezuela.

⁷⁶ Belgium, Bulgaria, Denmark, Ecuador, El Salvador, Georgia, Germany, Ireland, Latvia, New Zealand, Norway, Poland, Slovakia, Switzerland, United Kingdom, United States of America.

⁷⁷ Belgium, Bulgaria, Denmark, Ecuador, El Salvador, Georgia, Germany, Ireland, Latvia, New Zealand, Norway, Poland, Slovakia, Switzerland, United Kingdom, United States of America.

⁷⁸ Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Denmark, Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Latvia, Luxembourg, Mexico, Moldova, New Zealand, Norway, Poland, Portugal, Romania, Switzerland, Turkey, United Kingdom, United States of America.

- **Certificates of Products Registration.** Twenty-one States⁷⁹ advised that they consider that Certificates of Products Registration fall within the scope of the Convention.
- **Certificates of Conformity.** Twenty-one States⁸⁰ advised that they consider that Certificates of Conformity fall within the scope of the Convention.

87. New Zealand further advised that it considers that commercial invoices,⁸¹ certificates of free sale, and certificates of good standing fall within the Convention's scope. Similarly, Denmark considered that invoices⁸² fall within the Convention's scope, and Moldova advised that it considers that the Convention applies to any official document delivered by the authorities to natural or legal persons. Romania advised that it considers that certain veterinary documents fall within the scope of the Convention, and also noted that it applies the general principle that no new formalities should be imposed where previously none existed.⁸³

88. A number of States provided more general advice on the question of the scope of the Convention. Finland advised that it is of the opinion that the scope of the Convention may not be fundamentally altered by way of interpretation. If the documents referred to above are administrative documents dealing directly with commercial or customs operations, they do not fall within the scope of the Convention, since this is stated by explicit wording in Article 1(3) *b*).

89. Australia advised that it supported the view that the Convention should be interpreted as broadly as possible. However Australia advised that most of the categories set out above would be regarded as "commercial documents" by Australian authorities, with the exception of health and safety certificates when they are issued by government authorities. An Apostille could however be issued for a notary public's certificate appearing on such documents.

90. China (Hong Kong SAR) advised that an Apostille would only be issued for a document issued by a government authority, and not otherwise.

91. Japan advised that it considers that the issue requires further consideration in terms of present day practice, and that it would therefore refrain from commenting on specific categories of documents.

In sum,

- A majority of responding States advised that they had not encountered difficulties with the scope of the Convention.
- Issues that were reported included:
 - the applicability of the Convention to educational and medical documents;
 - refusal by some States Parties to accept valid Apostilles.
- Very few States, however, reported that they had refused to accept an Apostille on the basis that the underlying document was not a public document.
- Few States reported that issues had arisen with the Article 1(3) *a*) exclusion of "documents executed by diplomatic or consular agents".

⁷⁹ Argentina, Belgium, Bulgaria, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Latvia, Luxembourg, New Zealand, Norway, Poland, Portugal, Switzerland, United Kingdom, United States of America, Venezuela.

⁸⁰ Argentina, Belgium, Bulgaria, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Ireland, Latvia, Luxembourg, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Switzerland, United Kingdom, United States of America.

⁸¹ The Permanent Bureau finds this response somewhat puzzling as commercial invoices and invoices in general cannot, in and of themselves, be considered public documents. Some additional feature or act must be present (*e.g.*, a notarial certification of the invoice, for which an Apostille may be issued).

⁸² *Idem*.

⁸³ These remarks are expanded upon at some length in the response itself.

- More States advised that difficulties had arisen with the Article 1(3) *b*) exclusion of “administrative documents dealing directly with commercial or customs operations”. In particular, States referred to the diversity of international practice on the interpretation of this expression, and the resultant uncertainty. A number of States advised that they issue Apostilles for documents of this character where authentication is required by the State of Destination, even though they consider that such documents fall outside the scope of the Convention.
- Responding States unanimously considered that health and safety certificates fall within the scope of the Convention.
- A majority of responding States advised that they consider the following categories of documents fall within the scope of the Convention:
 - Certificates of Origin
 - Export Licences
 - Import Licences
 - Certificates of Products Registration
 - Certificates of Conformity.

C. Original documents / Certified documents (Q. 24–26)

92. A clear majority of responding States consider that the Convention does not apply to a simple copy of a public document (Q. 24). Of the 38 responding States, 37⁸⁴ advised that they considered that the Convention did not apply to such documents. Some of these States specified that a copy document can only be apostilled if the copy is certified by a notary or equivalent;⁸⁵ that a simple copy has no legal power;⁸⁶ and that only an original copy of a signature can be authenticated.⁸⁷ Denmark advised that an Apostille could be issued for a simple copy, but only where the signature is original. Switzerland noted that a small number of cantons would execute a simple copy in a small number of circumstances. Four states in the United States of America advised that they considered that the Convention does apply to a simple copy of a public document.

93. By contrast, many responding States will issue an Apostille for a certified copy of a document (Q. 25). In the Questionnaire, the Permanent Bureau noted that two scenarios could be distinguished where an Apostille is issued for a certified copy. In the first scenario, an Apostille is issued for the copy document itself (*e.g.*, a copied judgment or birth certificate), and under the second scenario, the Apostille is issued for the (notarial or other) certificate stating that the relevant document is a true copy of the original. Of the 38 responding States, 25⁸⁸ advised that they would issue an Apostille in either of these circumstances, and a further nine States⁸⁹ advised that they would only issue an Apostille in the second scenario. Three States⁹⁰ specified that, where a copy has been certified by the same authority that issued the document, then an Apostille can be issued for the document itself; otherwise an Apostille will only be issued for the notarial certificate.

⁸⁴ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (24 states), Venezuela.

⁸⁵ Australia, Ecuador, El Salvador, Finland, Germany, Latvia, Moldova, Monaco, New Zealand, Portugal, Slovenia, South Africa, Switzerland, Turkey, United States of America, Venezuela.

⁸⁶ Georgia, Japan, Mexico.

⁸⁷ Andorra, China (Hong Kong SAR), New Zealand.

⁸⁸ Andorra, Belgium, China (Hong Kong SAR), Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Latvia, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovenia, Spain, United Kingdom, United States of America (19 states), Venezuela.

⁸⁹ Australia, Croatia, Czech Republic, Ireland, Japan, Slovakia, South Africa, Switzerland, Turkey.

⁹⁰ El Salvador, New Zealand, United States of America (13 states).

94. Fourteen⁹¹ States agreed that, where an Apostille is issued for a certified copy, the Apostille Certificate should clearly specify whether it applies to the underlying copied public document, or to the notarial certificate that certifies that the copied document is a true copy. Eight States⁹² considered that this was not necessary.

95. The majority of responding States do not refuse to issue Apostilles for certified copies on public policy grounds (Q. 26). Of the 40 responding States, 31⁹³ advised that they do not refuse to issue Apostilles on such grounds, while nine⁹⁴ advised that they did. Of the States that do refuse to issue Apostilles on public policy grounds, Argentina advised that it will not provide an Apostille for a certified copy unless the original document has also been apostilled. Australia advised that it will only provide an Apostille for documents certified by certain authorities. El Salvador specified that it may refuse to issue an Apostille for a certified copy of a foreign public document. Greece advised that it would only issue an Apostille for a copy that was certified by the issuing agency. Ireland advised that it would refuse to issue an Apostille for a certified copy of a power of attorney unless it is clearly indicated why the power of attorney was drawn up in Ireland. The United Kingdom advised that it will only issue an Apostille for copies certified by the General Register Office,⁹⁵ and that photocopies certified by notaries are not acceptable. The United States of America advised that it will not issue an Apostille for a document intended to be used for an unlawful purpose.

In sum,

- A clear majority of responding States do not consider that an Apostille can be issued for a simple copy of a public document.
- A clear majority of responding States will issue an Apostille for a certified copy of a document, although the Apostille will usually relate to the notarial (or other) certificate attesting that the document is a true copy.
- A small minority of responding States advised that they refuse to issue Apostilles for certified copies on the grounds of public policy.

D. Translation of documents (Q. 27)

96. States were divided in equal numbers as to whether a translation executed in their State could be a public document (Q. 27). Of the 42 responding States, 21⁹⁶ responded that they will issue an Apostille for such documents, and the same amount of States⁹⁷ responded that they would not. Ireland responded yes and no, and specified that translations must be certified by a solicitor or notary in advance of the Competent Authority placing an Apostille Stamp on the document.

⁹¹ China (Hong Kong SAR), Ecuador, El Salvador, France, Georgia, Germany, Latvia, Lithuania, Monaco, Poland, Portugal, Slovenia, United States of America (13 states), Venezuela.

⁹² Belgium, Germany, Luxembourg, Moldova, Romania, South Africa, Turkey, United States of America (nine states).

⁹³ Andorra, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, Finland, France, Georgia, Germany, Japan, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United States of America (15 states), Venezuela.

⁹⁴ Argentina, Australia, El Salvador, Greece, Ireland, Latvia, South Africa, United Kingdom, United States of America (13 states).

⁹⁵ The General Register Office (GRO) primarily issues documents such as Birth, Marriage and Death Certificates. The GRO is also responsible for issuing "Certificates of No Impediment" for those seeking to enter into a marriage.

⁹⁶ Argentina, Belgium, Croatia, Denmark, Ecuador, El Salvador, Finland, Germany, Ireland, Latvia, Luxembourg, New Zealand, Poland, Romania, Slovakia, Slovenia, South Africa, Switzerland (half the cantons), Turkey, United Kingdom, United States of America (13 states).

⁹⁷ Andorra, Australia, Bulgaria, China (Hong Kong SAR), Czech Republic, France, Georgia, Germany, Greece, Ireland, Japan, Lithuania, Mexico, Moldova, Monaco, Norway, Portugal, Spain, Switzerland (half the cantons), United States of America (15 states), Venezuela.

97. Of the 21 States that advised that they would not issue Apostilles for a translation, four States⁹⁸ advised that an Apostille would be issued for a notarial certificate attached to the translation or the certification of the national body of translator's stamp or signature.

98. Of the 21 States that will issue Apostilles for translations, two⁹⁹ specified that a translation must be certified by a notary; six States¹⁰⁰ specified that a translation by an officially designated translator is a public document. New Zealand advised that if a translation is submitted with the document it relates to, then it is considered to be an extension of that document, and an Apostille can be attached; but the Apostille will only certify the signature and / or seal on the document (*i.e.*, not the signature and / or seal appearing on the translation). The accuracy of the translation is not checked. If a translation is submitted on its own, then it is considered as a stand-alone document. Latvia advised that it would issue an Apostille for a translation that was issued by the public institution which released the original public document, and for translations certified by a public notary.

99. In those States where an Apostille is issued for a translation, it appears that the translated document may, in most States, be a public or a private document (Q. 27(a)). Of the 22 responding States, 19¹⁰¹ advised they would issue an Apostille for a translation of both kinds of document; three States¹⁰² advised that they would issue an Apostille for translations of public documents only.

100. Where an Apostille is issued for a translated document, most States advised that the Apostille authenticates the signature and capacity of the translator and his or her seal (Q. 27(b)). Of the 22 responding States, 15¹⁰³ advised that the Apostille has this function. Six States¹⁰⁴ considered that the Apostille authenticates the signature, capacity and seal of the notary. El Salvador advised that the Apostille validates the signature of the officer of the Supreme Court who validated the signature of the notary.

In sum,

- States were divided in equal numbers as to whether a translation executed in their State could be a public document
- In most responding States, an Apostille can be issued for a certified translation of a public or a private document.
- Where an Apostille is issued for a certified translation, in the majority of responding States the Apostille authenticates the signature, capacity and seal of the translator; in the minority of responding States the Apostille authenticates the signature, capacity and seal of the certifying notary.

⁹⁸ Australia, Moldova, Portugal, Switzerland (half the cantons).

⁹⁹ El Salvador, United Kingdom.

¹⁰⁰ Argentina, Belgium, Croatia, Slovakia, Slovenia, Turkey.

¹⁰¹ Argentina, Australia, Belgium, Denmark, Ecuador, El Salvador, Finland, Germany, Ireland, Luxembourg, Moldova, New Zealand, Poland, Slovakia, Slovenia, Switzerland, Turkey, United Kingdom, United States of America.

¹⁰² Latvia, Romania, South Africa.

¹⁰³ Argentina, Belgium, Denmark, Finland, Germany, Ireland, Luxembourg, Poland, Romania, Slovakia, Slovenia, South Africa, Switzerland, Turkey, United States of America.

¹⁰⁴ Australia, Ecuador, Latvia, Moldova, United Kingdom, United States of America.

PART THREE – PRACTICAL OPERATIONAL ISSUES (Q. 28–49)

A. Register of signatures / stamps / seals (Q. 28)

101. Almost all responding States advised that their Competent Authorities maintain a register of signatures, stamps and seals that is consulted when determining whether to issue an Apostille for a public document (Q. 28). Of the 39 responding States, all¹⁰⁵ except Finland, one Swiss canton and four states in the United States of America advised that they keep such a register.

102. Of those States that maintain registers of signatures, seals and stamps, only four¹⁰⁶ advised that they maintain an entirely electronic register; the majority (20 States¹⁰⁷) maintain both electronic and paper registers. Fifteen States¹⁰⁸ advised that they maintain a paper register only. New Zealand advised that it is planning on scanning its paper register into its database in order to streamline checking.

103. All 37 responding States¹⁰⁹ use visual means to check the signature and seal on the public document against the register, except some states in the United States of America which check the signatures of the notaries electronically, for example by comparing the public keys (Q. 28(b)).

104. The majority of responding States¹¹⁰ advised that when the specimen signature, stamp or seal in the register does not match the public document presented for an Apostille, it is their practice to contact the relevant authority that issued the public document (Q. 28(c)). Some States¹¹¹ however would refuse to issue Apostilles in these circumstances. A variety of means (phone, fax and email) are used. Slovenia advised that it requests a specimen to be sent by fax. Some States further specified that they would update their register¹¹² and four States¹¹³ would not issue an Apostille until an updated register entry has been received. In the case where fraud is detected, Ecuador advised that the fraudulent document would be forwarded to the issuing authority, and Turkey advised that the matter may be reported to the police.

¹⁰⁵ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, South Africa, Spain, Switzerland (except for one canton), Turkey, United Kingdom, United States of America, Venezuela.

¹⁰⁶ Australia, Belgium, Denmark, United States of America (nine states).

¹⁰⁷ Argentina, China (Hong Kong SAR), Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Mexico, Norway, Portugal, Romania, Spain, Switzerland, United Kingdom, United States of America.

¹⁰⁸ Andorra, Bulgaria, Croatia, Czech Republic, Germany, Monaco, New Zealand, Poland, Slovakia, Slovenia, South Africa, Switzerland (majority of cantons), Turkey, United States of America (six states), Venezuela.

¹⁰⁹ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

¹¹⁰ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, Monaco, New Zealand, Norway, Portugal, Romania, Slovenia, Spain, Switzerland, Turkey, United States of America.

¹¹¹ South Africa, United States of America (some states).

¹¹² China (Hong Kong SAR), El Salvador, Georgia, Latvia, Mexico, Moldova, New Zealand, Romania, Switzerland, Turkey.

¹¹³ Australia, Croatia, El Salvador, Georgia.

105. In a majority of responding States, the Competent Authority will contact the relevant authority in order to update the register should a signature, stamp or seal not be included therein (Q. 28(d)). Of the 32 responding States,¹¹⁴ 30¹¹⁵ advised that they would contact the relevant authority in order to update the register. Georgia and Croatia specified that they would not issue an Apostille until the specimen has been received. In the case of the absence of a seal, Monaco would ask that the seal be affixed before the Apostille is issued, and Portugal would contact the authority concerned or return the document. South Africa advised that it would verify the samples in the register.

In sum,

- Almost all responding States maintain a register of signatures, stamps and seals, which is used by the Competent Authority to assist in the verification and authentication of a public document.
- In all but one of the responding States, verification is done by simple visual check.
- Where an irregularity is found between the public document and the register, almost all responding States contact the relevant authority that issued the public document, and then update the register accordingly.

B. Issues relating to the Apostille Certificate (Q. 29-39)

Form and completion of Apostille Certificate (Q. 29–30)

106. States were asked what form their Apostille takes and what methods are used to complete the certificate (Q. 29). The form of the Apostille Certificate is subject to wide variation, and some States use more than one method. Of the 37 responding States,¹¹⁶ 17¹¹⁷ advised that they issue Apostilles on standard white paper, while eight¹¹⁸ use security paper. Thirteen States¹¹⁹ use self-adhesive stickers and 14 States¹²⁰ use rubber stamps. Four States¹²¹ advised that they use an electronic format (but not an e-Apostille). Six States¹²² use a mixture of formats:

- Apostille Certificates printed on letterhead paper and then attached to the document with a ribbon,
- rubber ink stamp affixed to the document,
- by electronic means on security paper,
- authorized official's signature is in red; blue ribbons with foil sticker of seal affixed
- printed on blue paper.

¹¹⁴ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, Monaco, New Zealand, Norway, Portugal, Romania, Slovenia, South Africa, Spain, Switzerland, Turkey, United States of America, Venezuela.

¹¹⁵ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, Monaco, New Zealand, Norway, Portugal, Romania, Slovenia, Spain, Switzerland (majority of cantons), Turkey, United States of America, Venezuela.

¹¹⁶ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America.

¹¹⁷ Bulgaria, Denmark, Ecuador, Finland, France, Germany, Greece, Japan, Latvia, New Zealand, Portugal, Romania, South Africa, Switzerland, Turkey, United States of America (17 states), Venezuela.

¹¹⁸ Argentina, El Salvador, Finland, Lithuania, Mexico, Poland, United Kingdom, United States of America (10 states).

¹¹⁹ Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Finland, France, Germany, Latvia, Luxembourg, Monaco, Norway, Slovakia, Switzerland.

¹²⁰ Andorra, Australia, Croatia, Czech Republic, France, Georgia, Germany, Greece, Moldova, Romania, Slovenia, Switzerland, Turkey, United States of America (one state).

¹²¹ Australia, Bulgaria, Switzerland (two cantons), United States of America (four states).

¹²² France, Ireland, Moldova, New Zealand, Spain, United States of America.

107. The majority of responding States use a computer to complete the Apostille (Q. 30). Of the 38 responding States,¹²³ 29¹²⁴ advised that computers are regularly used for this purpose, while 19 States¹²⁵ advised that they complete the Apostille by hand. Three States¹²⁶ use a typewriter, though they all also employ either handwritten or computerised entries. Some States indicated they use a combination of means. The Permanent Bureau recommends using a computer to complete Apostilles in order to ensure legibility and reliability.

Numbering of Apostille Certificate (Q. 31)

108. Almost all responding States number their Apostilles in consecutive order (Q. 31). Of the 38 responding States,¹²⁷ 35¹²⁸ advised that this was their practice. South Africa advised that it has not yet developed a numbering system,¹²⁹ and Monaco advised that it uses an annual consecutive system, according to which the number returns to one at the start of each year. Ecuador advised that the number corresponds to the security paper log. Two States¹³⁰ use random order; Moldova plans to adopt such a system from the start of 2009, with the introduction of an electronic method. One state of the United States of America advised that the number of its Apostilles contains the initials of the staff member issuing the Apostille. The Permanent Bureau notes that the use of random numbering systems may be an effective way to combat the issuance of fraudulent Apostilles.

Signing of Apostille Certificate (Q. 32)

109. A number of different methods are employed to sign an Apostille (Q. 32). The vast majority of States, 35¹³¹ of 38 responding States, indicated they use handwritten or "wet" signatures. Six States¹³² advised that they also use signatures reproduced by rubber stamp. Four States¹³³ use scanned images of handwritten signatures. One US state uses a signature produced by mechanical means, and another uses an electronic signature.

¹²³ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

¹²⁴ Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Germany, Japan, Latvia, Lithuania, Luxembourg, Mexico, Monaco, New Zealand, Norway, Poland, Portugal, South Africa, Spain, Switzerland (some cantons), Turkey, United Kingdom, United States of America (29 states), Venezuela.

¹²⁵ Andorra, Australia, Croatia, Czech Republic, France, Georgia, Germany, Greece, Ireland, Latvia, Moldova, Monaco, Norway, Romania, Slovakia, Slovenia, Switzerland (most cantons), Turkey, United States of America (one State).

¹²⁶ Finland, Slovenia, Switzerland (one canton).

¹²⁷ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (30 states), Venezuela.

¹²⁸ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland, Turkey, United Kingdom, United States of America (27 states), Venezuela.

¹²⁹ However, the sample Apostille provided by South Africa contains a number.

¹³⁰ Luxembourg, United States of America (one State).

¹³¹ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR) (before 2 October 2008), Croatia, Czech Republic, Denmark, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Latvia, Lithuania, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (four states), Venezuela.

¹³² France, Japan, Norway, Portugal, Switzerland (one canton), United States of America (two states).

¹³³ China (Hong Kong SAR) (after 2 October 2008), Ecuador, Luxembourg, United States of America (20 states).

Affixing the *allonge* (Q. 33)

110. A variety of different methods are used to attach an *allonge* to the public document (Q. 33). Of the 35 responding States, 17¹³⁴ advised that they attach the *allonge* with a simple staple. Twelve States¹³⁵ attach the *allonge* using ribbons. Thirteen States¹³⁶ use glue, and a small number of States use grommets¹³⁷ or wax seals.¹³⁸ Some States¹³⁹ also advised that they use other methods, generally a combination or variation of the above.

Placing the Apostille (*allonge*) (Q. 34–35)

111. Where an *allonge* must be placed on a single-page public document, the *allonge* is generally placed on the page containing the signature (Q. 34). Of the 39 responding States, 26¹⁴⁰ advised that they place the *allonge* on the page containing the signature. Ireland specified that it also places Apostilles on the back of the document, and Japan specified that it determines the location of the *allonge* by reference to the seal as well as the stamp. Nine States¹⁴¹ place the *allonge* on the front of the document, and 19 States¹⁴² place the *allonge* on the back.

112. Where an *allonge* is to be placed on a multiple-page public document, most States place the *allonge* on the page containing the signature (Q. 35). Of the 38 responding States, 28¹⁴³ advised that they use this page, although some States have varying practices between Competent Authorities. Six States¹⁴⁴ advised that they place the *allonge* on the first page, and 15 States¹⁴⁵ place the *allonge* on the last page. Four States¹⁴⁶ place the *allonge* across the back of several pages folded in a cascade. One Swiss canton affixes the *allonge* with a stamp.

Rejection of Apostilles for formal reasons (Q. 36–37)

113. It appears that Apostilles are sometimes rejected on the grounds of their format, appearance or the method of attachment to the underlying public document (Q. 36). While the vast majority of States (27¹⁴⁷ of 37 responding States) advised that they have not had Apostilles they have issued rejected by States of Destination for this reason, 11 States¹⁴⁸ advised that their Apostilles had been so rejected.

¹³⁴ Argentina, Croatia, Czech Republic, Ecuador, El Salvador, France, Germany, Ireland, Japan, Luxembourg, Monaco, Poland, Romania, Switzerland, Turkey, United States of America (25 states), Venezuela.

¹³⁵ Czech Republic, Ecuador, France, Ireland, Japan, Mexico, Monaco, Poland, Romania, Switzerland (two cantons), Turkey, United States of America (one state).

¹³⁶ Andorra, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, France, Germany, Ireland, Monaco, Norway, Slovenia, Switzerland, United Kingdom.

¹³⁷ Bulgaria, Germany, Lithuania, Moldova, Switzerland (two cantons).

¹³⁸ Bulgaria, Germany, South Africa, Switzerland (one canton), Turkey.

¹³⁹ Australia, Czech Republic, Denmark, Finland, Germany, Greece, Latvia, Norway, Portugal, Spain, Switzerland (some cantons), United States of America.

¹⁴⁰ Andorra, Argentina, Belgium, China (Hong Kong SAR) (when there is space), Croatia, Czech Republic, Denmark, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Mexico, Monaco, Norway, Poland, Portugal, Slovakia, Slovenia, South Africa, Spain, Switzerland (half the cantons), United States of America, Venezuela.

¹⁴¹ Belgium, France, Georgia, Luxembourg, New Zealand, Norway, South Africa, Switzerland, United States of America (16 states).

¹⁴² Australia, Belgium, Bulgaria, China (Hong Kong SAR), Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Moldova, Norway, Poland, Romania, Switzerland (half the cantons), Turkey, United Kingdom, United States of America (four states).

¹⁴³ Andorra, Argentina, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, El Salvador (on the back of the page), France, Georgia (except the Supreme Court), Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, Norway, Poland, Portugal, Slovakia, Slovenia, South Africa, Switzerland (majority of cantons), United Kingdom (back of the page), United States of America.

¹⁴⁴ Ireland, New Zealand, Norway, Portugal, South Africa, United States of America (16 states).

¹⁴⁵ Australia, Belgium, Bulgaria, Czech Republic, Ecuador, Finland, France, Georgia, Germany, Ireland, Romania, Switzerland, Turkey, United States of America (two states), Venezuela.

¹⁴⁶ Bulgaria, France, Monaco, Switzerland (one canton).

¹⁴⁷ Andorra, Argentina, Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, Poland, Portugal, Slovakia, Slovenia, South Africa, Switzerland, Turkey, United States of America (six states), Venezuela.

¹⁴⁸ Finland, France, Germany, Luxembourg, Monaco, New Zealand, Norway, Romania, Spain, United Kingdom, United States of America (24 states).

114. Among the States that have had Apostilles rejected, France advised that it had had a number of Apostilles rejected by officials of the Russian Federation on grounds including the following:

- The Apostille certificate was not precisely square;
- The stamp on the Apostille did not conform;
- The ink used to complete the Apostille certificate was not blue;
- The pages of the document were not folded and stapled, or held together by a link with the seal of the Competent Authority;
- The Apostille certificate did not mention the State of Destination;
- The characters of the stamp were smudged or illegible;
- The Apostille certificate was not attached to all the pages of the document;
- The name of the signatory was insufficiently precise;
- The seal of the competent authority did not appear on every page of the document.

115. Luxembourg advised that an Italian notary had refused to recognise a PDF signature. Norway advised that it had an Apostille rejected on the basis that the stamp was in blue ink. Monaco advised that some Monegasque Apostilles had been rejected because the certificates were not sewn with ribbons, or in the case of certified copies the originals were not attached. The Permanent Bureau is particularly concerned that certified copies, for which an Apostille has been issued, are being rejected because originals are not attached, as this practice completely undermines the purpose of a certified copy.

116. New Zealand advised that it had a large number of Apostilles rejected in 2007 because they did not have exactly the same measurements as those of the *Model Certificate* on the "Apostille Section" of the Hague Conference website. Romania had an Apostille rejected because the stamp was illegible. The United Kingdom referred to a recent case where an Apostille was rejected in Germany because the Competent Authority described the signatory as a "notary" and not a "Scrivener Notary". Spain advised that it had had a number of Apostilles rejected by officials of the Russian Federation because the Apostille Certificate was not surrounded by a perfect square with sides of 9 cm minimum as indicated on the Model Form; two sides were 2 mm too short. The United States of America advised that it had had Apostilles rejected because the method of attachment of the Apostille (usually stapling) was not to the liking of the receiving body, and because the Apostille Certificate differs slightly from the Model Form.

117. Most States, 27,¹⁴⁹ advised that they have never rejected a foreign Apostille because of the format, appearance or method of attachment (Q. 36). Six States¹⁵⁰ did not have any information in this regard. Six States¹⁵¹ indicated that they had rejected Apostilles: Turkey because the underlying document was separated from the Apostille; and two States¹⁵² reported a case relating to electronic Apostilles, although Spain advised that it was reviewing its position.¹⁵³

Language requirements (Q. 38)

118. Pursuant to Article 4(2) of the Convention, the Model Apostille Certificate annexed to the Convention, and Conclusion and Recommendation No 19 of the 2003 Special Commission, the language requirements of Apostilles may be summarised as follows:

¹⁴⁹ Andorra, Argentina, Bulgaria, China (Hong Kong SAR), Czech Republic, Denmark, Ecuador, El Salvador, Finland, Georgia, Germany, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Poland, Romania, Slovakia, Slovenia, South Africa, Switzerland (majority of cantons), United Kingdom, United States of America (20 states), Venezuela.

¹⁵⁰ Croatia, Ireland, Japan, Norway, Portugal, Switzerland (majority of cantons answered no).

¹⁵¹ Belgium, Germany, Spain, Switzerland, Turkey, United States of America (one state).

¹⁵² Spain, Switzerland.

¹⁵³ The Permanent Bureau further notes that one Spanish Competent Authority has commenced issuing e-Apostilles.

- **Title.** The reference to the Convention in the title of an Apostille Certificate must be in French *only* (i.e., "Apostille (*Convention de La Haye du 5 octobre 1961*)").
- **Standard Terms.** The standard terms are the 10 required data fields that must be shown on the Apostille Certificate. They must be *either in French or in English, or in the / an official language of the Competent Authority issuing the Apostille*. It is also possible to use *other* languages (e.g., the / an official language of the State of destination of the Apostille) together with any of the first required languages. In other words, the use of any other language is optional and does not replace use of the first required language (i.e., English, French or the / an official language of the issuing Competent Authority). Although Article 4(2) only refers to a "second language", the standard terms may actually be written in more than two languages if the Competent Authority so wishes (see Conclusion and Recommendation No 19 of the 2003 Special Commission). From a strictly practical point of view, if the standard terms are written in several languages, it is useful to use bold characters for the required language and to use regular and / or smaller characters for the other language(s).
- **Entries added by the Competent Authority.** The "entries" are the answers to the standard terms that will be unique to every Apostille. They must be *either in French or in English, or in the / an official language of the Competent Authority issuing the Apostille*.

119. All 38 responding States¹⁵⁴ indicated that they complied with the language requirements set out in Article 4(2) of the Convention (Q. 38 (a)). No State indicated that it did not comply with these requirements. New Zealand remarked that its Apostilles are issued in English, and Switzerland noted that Apostilles were issued in languages other than the official languages of Switzerland, such as Spanish, Russian or Portuguese.

120. The majority of responding States (36¹⁵⁵) advised that they do not have a policy to translate Apostilles into one of the languages of the State of Destination. Greece advised that in most cases, the official Translation Service provides a notice at the end of an official translation that a document is apostilled, and indicating some of the standard items of the Apostille; if requested, all items can be translated. Switzerland and New Zealand indicated that they have translated their Apostilles to avoid difficulties.

Additional information provided on Apostille Certificate (Q. 39)

121. Few responding States advised that they include additional information on an Apostille (Q. 39). Of the 38 responding States, six¹⁵⁶ advised that they add any such information. Thirty-four States¹⁵⁷ advised that they do not include such information.

¹⁵⁴ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland (half the cantons), Turkey, United Kingdom, United States of America (30 states), Venezuela.

¹⁵⁵ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (30 states), Venezuela.

¹⁵⁶ Argentina, Bulgaria, France, Switzerland, United Kingdom, United States of America (six states).

¹⁵⁷ Andorra, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland (majority of cantons), Turkey, United States of America (24 states), Venezuela.

122. Of the States that do provide additional information, two¹⁵⁸ advised that they provide information relating to the limited effect of the Apostille, and New Zealand advised that it will shortly add such information. Two States¹⁵⁹ advised that they provide information relating to the nature or content of the underlying document, and information relating to the person requesting the Apostille. Argentina advised that it includes information relating to the authorising official, authorised signatory, fee and date. Bulgaria advised that it adds a checking code. The United Kingdom noted that it prints a disclaimer¹⁶⁰ below the Apostille, and some Swiss cantons include the price charged to issue the Apostille below the Apostille, next to the number. The United States of America noted that words are sometimes added to the effect that the Apostille is not to be used in the United States of America. The Permanent Bureau supports the addition of text describing the limited effect of Apostilles.

123. Most States that add information do so outside the box of the Apostille,¹⁶¹ although some States add the information within the box.¹⁶² The Permanent Bureau considers that such information should be added outside the box.

In Sum,

- Apostille Certificates:
 - are often printed on white paper, but a variety of other forms is also used;
 - are usually numbered sequentially;
 - are generally printed with a computer, but signed by hand;
 - are attached to the public document in many different ways, but mainly with ribbons and staples;
 - are generally placed on the page containing the signature.
- All States comply with the language requirements of the Convention.
- Few States have a policy of translating an Apostille into the language of the State of Destination.
- The vast majority of States have not rejected an Apostille or had an Apostille rejected on the basis of its format, appearance or method of attachment, although some States have reported that this has occurred.
- Very few States add additional information about the nature of an Apostille, and where such information is added it is usually outside the box of the Apostille itself.

C. Registers (Q. 40-43)

124. Almost all responding States advised that they maintain a register as required by Article 7 of the Convention (Q. 40). Of the 38 responding States,¹⁶³ all advised that they maintain a register. Only one Competent Authority¹⁶⁴ advised that it did not maintain a register.

¹⁵⁸ France, United States of America (one state).

¹⁵⁹ Argentina, United States of America (two states, three states).

¹⁶⁰ The disclaimer states: "If this document is to be used in a country which is not party to the Hague Convention of 5 October 1961, it should be presented to the consular section of the mission representing that country. An Apostille or legalisation certificate only confirms that the signature, seal or stamp on the document is genuine. It does not mean that the contents of the document are correct or that the Foreign & Commonwealth Office approves of the contents."

¹⁶¹ Argentina, France, United States of America.

¹⁶² Bulgaria.

¹⁶³ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (28 states), Venezuela.

¹⁶⁴ One Swiss canton.

125. Different forms of registers are maintained (Q. 41). Twenty-one responding States¹⁶⁵ use a paper register, and 23 States¹⁶⁶ maintain an electronic register accessible only to the Competent Authority (*i.e.*, an intranet register). Three States¹⁶⁷ advised that they maintain an electronic register that is accessible online. The Permanent Bureau is also aware Colombia maintains such a register.¹⁶⁸

126. The majority of responding States advised that they retain information in the register for more than 10 years (Q. 42). Of the 30 responding States, 24¹⁶⁹ advised that they kept entries for at least this length of time, 12¹⁷⁰ indicated that they retain information for between one and five years, and seven¹⁷¹ retain information for between five and ten years. No State indicated that it retains information in its Register for less than a year.

127. Ten responding States¹⁷² advised that they keep a copy of information relating to the underlying public document (there being no need to do so under the Convention) (Q. 43). Andorra advised that its electronic register contains a field containing a summary description of the act of delivering the Apostille. Bulgaria advised that the document is stored together with information about which court or official signed it. Croatia keeps a copy of the document, as do some German *Länder*. Georgia advised that it keeps a copy and records information about the requesting person, the type of document and the destination country. Slovenia advised that it keeps information about the nature of the document to ensure the completeness of their register. Latvia keeps a short description of the document and its contents. One Swiss canton indicated that all apostilled documents are photocopied and the document retained. Romania keeps detailed information about the applicant, the document and the destination, including occasionally copies. Some states in the United States of America also keep copies of the underlying document, or retain information relating to it. Thirty States¹⁷³ do not keep a copy of, or information about, the underlying document.

In Sum,

- Almost all States keep a register of the Apostilles they have issued, with the exception of a single Competent Authority.
- Many States maintain electronic registers, although many States still use paper registers.
- Three responding States have made their register available online.
- Most responding States keep information in the register for over 10 years, and all responding States maintain their records for over one year.
- Most States do not keep a copy of or information relating to the underlying document, although a few States record information in the register.

¹⁶⁵ China (Hong Kong SAR), Croatia, Czech Republic, El Salvador, Finland, France (22 Competent Authorities), Georgia, Germany, Greece, Japan, Moldova, Monaco, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland (majority of cantons), Turkey, United States of America (four states).

¹⁶⁶ Andorra, Argentina, Australia, Bulgaria, China (Hong Kong SAR), Denmark, Ecuador, France (10 Competent Authorities), Georgia, Germany, Ireland, Latvia, Lithuania, Luxembourg, Mexico, New Zealand, Norway, Poland, Romania, Switzerland (some cantons), United Kingdom, United States of America (25 states), Venezuela.

¹⁶⁷ Belgium, Bulgaria (since 24 November 2008), United States of America (Rhode Island).

¹⁶⁸ For greater detail on electronic registers see the e-APP website, available at < www.e-APP.info >.

¹⁶⁹ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Denmark, Ecuador, Finland, France, Georgia, Germany, Latvia, Moldova, New Zealand, Norway, Portugal, Slovakia, Slovenia, Spain, Switzerland (majority of cantons), United Kingdom, United States of America (16 states).

¹⁷⁰ El Salvador, Ireland, Japan, Lithuania, Luxembourg, Mexico, Poland, Romania, South Africa, Switzerland (some cantons), United States of America (nine states), Venezuela.

¹⁷¹ Czech Republic, France, Germany, Greece, Switzerland (some cantons), Turkey, United States of America (five states).

¹⁷² Andorra, Bulgaria, Croatia, Czech Republic, Georgia, Germany, Latvia, Romania, Slovenia, United States of America (six states).

¹⁷³ Argentina, Australia, Belgium, China (Hong Kong SAR), Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Ireland, Japan, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Slovakia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (23 states), Venezuela.

D. Various scenarios relating to the issuance of Apostilles (Q. 44–45)

128. Question 44 traversed some of the most common scenarios arising from the operation of the Apostille Convention and invited States to indicate whether or not they would issue an Apostille in a given scenario. The scenarios were chosen by the Permanent Bureau based upon its experience of questions that raised particularly difficult issues. Consequently, while State practice is uniform in some scenarios, it is quite varied in others. At the end of each scenario, the Permanent Bureau has taken the liberty of expressing its view upon the scenario.

Applicant

Scenario One:

A person other than the one who requires the Apostille requests the Apostille.

129. All but one of the 38 responding States¹⁷⁴ indicated they would issue an Apostille in this situation, although in certain States the Apostille would only be issued subject to certain conditions. Germany advised that some *Länder* require the applicant to produce a power of attorney. Japan advised that it would require a letter of proxy, whereas Moldova and Romania require the presentation of a power of attorney unless the person applying for the Apostille is a direct relative or spouse with proper identity documents. Latvia indicated it would not issue an Apostille with the qualification that it would only do so for a relative or someone holding a power of attorney on behalf of the person who ultimately requires the Apostille.

130. In the Permanent Bureau's view, an Apostille should be issued to any person who requests it, even if he / she is not the person who intends to use the Apostille abroad. Article 5 of the Convention provides that "[t]he certificate shall be issued at the request of the person who has signed the document *or of any bearer.*"¹⁷⁵ The Permanent Bureau considers that this language is sufficiently wide to entitle any person to seek an Apostille, whether or not they intend to use the Apostille abroad themselves. However, when an Apostille is sought by an individual who is not the ultimate user of the Apostille, it is suggested that the authority given by the ultimate user should be evidenced before issuing the Apostille in order to prevent fraud.

Old documents

Scenario Two:

The document was issued so long ago that a sample of the signature or stamp is not included in the register.

131. Practice on this question was divided, and only a minority of responding States appear willing to issue an Apostille if it is not possible to verify the signature and stamp on the document, and the capacity in which the document was signed. Twenty-six responding States¹⁷⁶ indicated they would not issue an Apostille, however a number of these States specified that they would seek further clarification¹⁷⁷ by contacting the relevant authority¹⁷⁸ or trying otherwise to obtain a copy of the signature.¹⁷⁹ The Czech Republic indicated that 10 years was a hard limit, whilst Ireland would "ensure the document was issued in the current calendar year."

¹⁷⁴ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

¹⁷⁵ Emphasis added.

¹⁷⁶ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Lithuania, Luxembourg, New Zealand, Portugal, Slovakia, Slovenia, Switzerland, Turkey, United Kingdom, United States of America (16 states), Venezuela.

¹⁷⁷ China (Hong Kong SAR).

¹⁷⁸ New Zealand, Portugal, Switzerland.

¹⁷⁹ Germany, Portugal, Slovakia, Switzerland, United Kingdom, Venezuela.

132. Thirteen States¹⁸⁰ indicated they would issue an Apostille in this situation. Four States¹⁸¹ specified that they would only issue an Apostille if the issuing authority could verify or certify the document or the signature. Japan stipulated that it will only do so if a new public document for the same purpose cannot be issued. Finland advised that it verifies the authenticity using archives.

133. The Permanent Bureau considers that it is a matter for the law of each Contracting State to determine whether an old document is a public document or not. Where, however, an old document is considered to be a public document, then an Apostille should ordinarily be issued if and when the signature, identity and stamp can be verified. Accordingly, when presented with an old document, a Competent Authority should make efforts to verify the signature, capacity and stamp. If however, these efforts eventually prove fruitless and the Competent Authority is unable to verify the signature, identity and stamp, then no Apostille should be issued.

Scenario Three:

The public document was issued with a time limit which has since expired.

134. Again, practice on this question was divided. Nineteen States¹⁸² indicated they would issue an Apostille in this scenario. New Zealand advised that it would discuss the matter with the applicant, but noted that examples exist where expired public documents have legitimate uses (such as police clearances). El Salvador remarked that the Apostille authenticates the signature only. Similarly, Monaco and Switzerland noted that the contents of the document are the concern of the receiving State, and that so long as the aspects which the Apostille authenticates are valid then an Apostille should be issued.

135. Eighteen States¹⁸³ indicated they would not issue Apostilles in this situation, although Turkey noted that if the document were presented as a copy certified by a currently authorised individual, it would issue an Apostille. The Czech Republic advised that such documents are unknown in the Czech Republic, and Japan could not envisage such a document. Romania indicated there was not uniform practice and that varying justifications were used to issue or not to issue an Apostille. Finland also indicated that practice was not uniform, and a new document would be preferred.

136. The Permanent Bureau considers that an Apostille should be issued for an expired public document, so long as the expiry does not deprive the document of its status as a public document. The purpose of the Apostille is limited to authenticating the signature of the person who executed the public document, their capacity, and, where relevant, the identity of any stamp placed upon the document. The Apostille is not concerned with the content of the document. Accordingly, the fact that the content of the document refers to an expiry period should not prevent the Competent Authority from verifying the authenticity of the limited details that the Apostille authenticates. However, if the expiry causes the document to lose its public character then an Apostille cannot be issued, since the document has ceased to fall within the scope of the Convention according to Article 1 of which an Apostille applies only to public documents.

¹⁸⁰ Denmark, Finland, Germany, Japan, Latvia, Mexico, Moldova, Monaco, Poland, Romania, South Africa, Spain, United States of America (19 states).

¹⁸¹ Japan, Mexico, Monaco, Romania.

¹⁸² Argentina, Belgium, China (Hong Kong SAR), Croatia, El Salvador, France, Germany, Latvia, Lithuania, Luxembourg, Mexico, Monaco, New Zealand, Poland, Romania, Slovenia, Switzerland, United Kingdom, United States of America.

¹⁸³ Andorra, Australia, Denmark, Ecuador, Finland, Georgia, Germany, Greece, Ireland, Moldova, Norway, Portugal, Romania, Slovakia, South Africa, Spain, Turkey, Venezuela.

Discrepancies in the signature or name

Scenario Four:

The name but not the signature matches the sample in the register.

137. A majority of responding States (29¹⁸⁴) advised that they would not issue an Apostille in such circumstances. El Salvador advised that it would return the document to the relevant authority for rectification. Five States¹⁸⁵ advised that they would contact the relevant authority. Switzerland would issue an Apostille on the provision of a new specimen or verification. Romania indicated that practice was not uniform but that Apostilles could be issued under certain conditions, perhaps following verification.

138. Twelve States¹⁸⁶ advised that they would issue an Apostille in this scenario. However, all of those States except Romania indicated they would first verify the name with the relevant authority. Romania indicated that practice was not uniform in this regard, and that some authorities would and others would not issue a response but that verification with the relevant authority was a possibility.

139. Regardless of whether an Apostille is issued or not, the responses indicate that almost all States would contact the relevant authority under this scenario.¹⁸⁷

140. The Permanent Bureau considers that an Apostille must never be issued if the Competent Authority is unable to verify the signature on the public document. Where, however, a signature does not match between the public document and the specimen contained in the register, the Competent Authority should attempt to contact the authority that issued the public document to check the veracity of the signature. If it transpires that the signature is genuine, then an Apostille should be issued; if not, then an Apostille should be refused.

Scenario Five:

The signature matches the sample but the name varies (e.g., addition of a middle name).

141. Responses differed in respect of this scenario, but it appears that most responding States would attempt to check the matter with the authority that executed the public document. Twenty-one States¹⁸⁸ indicated they would issue an Apostille in this scenario, but eight of these States¹⁸⁹ specified that they would require further clarification and verification by the issuing authority. Seventeen States¹⁹⁰ indicated they would not issue an Apostille, but, again, six of these States¹⁹¹ indicated they would seek further clarification, or even a new specimen.¹⁹² Romania again indicated that practice was not uniform, but diverse avenues, including verification, were open to authorities. Regardless

¹⁸⁴ Andorra, Argentina, Australia, Belgium, Croatia, Czech Republic (Ministry of Foreign Affairs), Ecuador, El Salvador, Finland, France, Germany, Ireland, Latvia, Lithuania, Luxembourg, Mexico, Moldova, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, South Africa, Switzerland, Turkey, United Kingdom, United States of America (23 states), Venezuela.

¹⁸⁵ Andorra, Denmark, New Zealand, Portugal, Venezuela.

¹⁸⁶ China (Hong Kong SAR), Czech Republic (Ministry of Justice), Finland, Georgia, Germany, Greece, Japan, Monaco, Romania, Slovenia, Spain, United States of America (seven states).

¹⁸⁷ Andorra, Bulgaria, China (Hong Kong SAR), Czech Republic (Ministry of Justice), Denmark, El Salvador, Georgia, Germany, Greece, Japan, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, Venezuela.

¹⁸⁸ Argentina, Belgium, China (Hong Kong SAR), Czech Republic (Ministry of Justice), El Salvador, France, Georgia, Germany, Greece, Japan, Lithuania, Mexico, Moldova, New Zealand, Norway, Poland, Portugal, Romania, Slovenia, Spain, United States of America (three states).

¹⁸⁹ Argentina, China (Hong Kong SAR), Czech Republic, El Salvador, Japan, Portugal, Slovenia, Spain.

¹⁹⁰ Andorra, Australia, Croatia, Czech Republic (Ministry of Foreign Affairs), Ecuador, Germany, Ireland, Luxembourg, Monaco, Romania, Slovakia, South Africa, Switzerland, Turkey, United Kingdom, United States of America (26 states), Venezuela.

¹⁹¹ Andorra, Monaco, Slovakia, South Africa, Switzerland, Venezuela.

¹⁹² Slovakia, Switzerland.

of whether States indicated that they would or would not issue an Apostille, most indicated they would check with the appropriate authority.¹⁹³

142. The Permanent Bureau considers that, like the previous scenario, the Competent Authority should attempt to clarify the matter with the authority that executed the document and, if it transpires that the signature and name are authentic, the Apostille should be issued.

Certified copies

Scenario Six:

Apostille requested for a certification of a copy of the passport issued by your State.

143. Most States Parties advised that they would issue an Apostille in this scenario. Twenty-six responding States¹⁹⁴ indicated they would issue an Apostille, and eight States¹⁹⁵ specified that they would prefer or even insist on a certified copy. Ten States¹⁹⁶ indicated they would not issue an Apostille, and four of these States¹⁹⁷ indicated this was for reasons of domestic legislation or policy.

144. The Permanent Bureau considers that a certification that a copy of a passport was genuine would ordinarily fall within the scope of the Convention as it would be a “public document” according to the law of most States. The Permanent Bureau notes, however, the Conclusion and Recommendation of the 2003 Special Commission which noted that:

“Regarding the application of an Apostille on a *certified copy* of a public document, the SC concluded that Article 1 of the Convention applies. Individual States, however, may decline to issue an Apostille to the certified copy of a document on the grounds of public policy.”¹⁹⁸

Scenario Seven:

Apostille requested for a certification of a copy of the passport issued by a foreign State.

145. Most responding States advised that they would not issue an Apostille in such circumstances. Thirteen States¹⁹⁹ indicated they would issue an Apostille in this scenario. Eight States²⁰⁰ commented they would only do so if the certification was performed by an appropriate domestic authority, and therefore one capable of being authenticated. By contrast, 24 States²⁰¹ indicated they would not issue an Apostille in this scenario. Three States²⁰² considered that a consular certification process would be more appropriate. Romania noted that the Convention applies only to documents issued within the requested State and that this applies to all kinds of identity documents including passports.

¹⁹³ China (Hong Kong SAR), Czech Republic (Ministry of Justice), Denmark, El Salvador, Georgia, Japan, Latvia, Monaco, Portugal, Romania, Slovakia, Slovenia, Switzerland.

¹⁹⁴ Andorra, Argentina, Croatia, Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Ireland, Lithuania, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, South Africa, Switzerland, Turkey, United Kingdom, United States of America, Venezuela.

¹⁹⁵ Denmark, Ecuador, El Salvador, Finland, Germany, Greece, South Africa, Switzerland.

¹⁹⁶ Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Georgia, Japan, Latvia, Luxembourg, Mexico, Romania.

¹⁹⁷ Czech Republic, Georgia, Japan, Romania.

¹⁹⁸ Conclusion and Recommendation No 11.

¹⁹⁹ Argentina, Denmark, Germany, Japan, Luxembourg, Moldova, Monaco, New Zealand, Slovakia, Spain, Switzerland, United Kingdom, United States of America.

²⁰⁰ Australia, Germany, Monaco, New Zealand, Slovakia, Spain, Switzerland, United Kingdom.

²⁰¹ Andorra, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Ecuador, El Salvador, Finland, France, Georgia, Greece, Ireland, Latvia, Lithuania, Mexico, Norway, Poland, Portugal, Romania, Slovenia, South Africa, Turkey, Venezuela.

²⁰² El Salvador, South Africa, Turkey.

146. The Permanent Bureau considers that, if the copy of the foreign passport was certified by a notary or other officer of the State in which the Apostille was sought, then the certification that the document is genuine would be a public document according to the law of that State, and hence capable of being apostilled. The Apostille would certify only the signature, capacity and seal of the notary. If the certification issued by a notary or other authority is a public document under domestic law, then it may be apostilled.

Scenario Eight:

Apostille requested for certification of copy of an identity document issued by your State.

147. The majority of responding States would issue an Apostille in these circumstances. Thirty responding States²⁰³ indicated they would issue an Apostille in this case. Eight States²⁰⁴ indicated they would not, with the Czech Republic commenting that it is prohibited by law to do so. The United Kingdom indicated an Apostille may or may not be issued, and that Apostilles are not issued on immigration papers except where they form part of an adoption case. Three States²⁰⁵ indicated that the issuance of an Apostille would depend on the certification of a genuine copy being issued by a local authority. South Africa advised that it requires the originals to also be present at the time of issuance.

148. The Permanent Bureau considers that if the certification issued by a notary or other authority is a public document under domestic law, then it may be apostilled.

Scenario Nine:

Apostille requested for certification of copy of an identity document issued by a foreign State.

149. A majority of responding States advised they would not issue an Apostille in these circumstances. Thirteen States²⁰⁶ indicated they would issue an Apostille whilst 26 States²⁰⁷ indicated they would not. Eight States²⁰⁸ specified that it would depend on whether the certification was performed by a domestic authority, *i.e.*, one capable of being apostilled. Three States²⁰⁹ indicated that diplomatic and consular processes should be employed rather than issuing an Apostille. Romania referred to the scope of the Convention, which provides that only public documents of domestic origin should be issued with an Apostille.

150. The Permanent Bureau considers that its remarks in respect of the previous three scenarios are applicable here.

Special cases related to notarial certificates

Scenario Ten:

The notarial certificate is otherwise valid but the document it relates to is not attached.

151. The majority of responding States advised that they would not issue an Apostille in this case. Ten States²¹⁰ indicated they would issue an Apostille in this situation, and

²⁰³ Andorra, Argentina, Australia, Croatia, Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Ireland, Japan, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United States of America, Venezuela.

²⁰⁴ Argentina, Belgium, Bulgaria, China (Hong Kong SAR), Czech Republic, Georgia, Latvia, Mexico.

²⁰⁵ Ecuador, El Salvador, Switzerland.

²⁰⁶ Argentina, Australia, Germany, Japan, Luxembourg, Moldova, Monaco, New Zealand, Slovakia, Spain, Switzerland, United Kingdom, United States of America.

²⁰⁷ Andorra, Argentina, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Greece, Ireland, Latvia, Lithuania, Mexico, Norway, Poland, Portugal, Romania, Slovenia, South Africa, Turkey, Venezuela.

²⁰⁸ Andorra, Australia, Germany, Monaco, New Zealand, Slovakia, Switzerland, United Kingdom.

²⁰⁹ El Salvador, South Africa, Turkey.

²¹⁰ Bulgaria, Denmark, France, Luxembourg, Moldova, Monaco, Poland, Spain, Switzerland, United States of America.

26 States²¹¹ indicated they would not. Switzerland noted that it is only the signature that is authenticated, but that some Cantons advised that an Apostille would not be issued. El Salvador advised that it requires validation of notarized documents by the Supreme Court's Authentication Department, and Georgia noted that it would issue the Apostille only on the document itself, not on the certification. Portugal advised that this situation had not yet arisen.

152. The Permanent Bureau recommends not issuing an Apostille in this situation as the notarial certificate does not actually relate to anything, and there is no way to verify the document to which it nominally relates. Issuing an Apostille without the underlying document encourages the incidence of fraud.

Scenario Eleven:

Notarial certificate contains only the seal and not the signature.

153. Almost all responding States would not issue an Apostille in this case. Thirty-five responding States²¹² indicated they would not issue an Apostille in this situation, and only one State²¹³ advised that it would. Ecuador advised that it requires a signature for every notarial certificate, whereas El Salvador requires validation by the relevant Supreme Court department. New Zealand advised that it would return the document to the notary for signature. Portugal noted the situation had not arisen thus far. One Swiss canton indicated that as long as its Competent Authority has a specimen they will issue an Apostille.

154. The Permanent Bureau considers that the outcome of this scenario turns upon the law of the State of execution: if, under that law, a notarial certificate is a valid public document without a signature, then an Apostille should be issued; if not, then an Apostille should not be issued.

Scenario Twelve:

Notarial certificate contains only the signature and not the seal.

155. Again, a majority of responding States would not issue an Apostille in such circumstances. Only six States²¹⁴ indicated they would issue an Apostille. Finland remarked that a seal or stamp is not obligatory and Portugal noted the situation had not arisen thus far. The United Kingdom noted that it would only issue Apostilles in the case of Scottish notaries issuing the certificate. By contrast, 31 States²¹⁵ indicated that they would not issue an Apostille. Ecuador noted every certificate must bear the seal whilst El Salvador noted that every certified copy must be validated. Denmark advised that it would contact the notary. Romania noted that only domestically issued public documents can be issued with an Apostille, and Georgia advised that it places the Apostille on the underlying document and not the certification. New Zealand advised that it would return the document to the notary for rectification of the omission. Switzerland advised that three cantons would issue an Apostille where they had a specimen, but most cantons would not issue an Apostille.

156. In the Permanent Bureau's view, this scenario also turns upon the law of the State of Execution: if, under that law, a notarial certificate is a valid public document without a seal, then an Apostille should be issued; if not, then an Apostille should not be issued.

²¹¹ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Czech Republic, Ecuador, El Salvador, Finland, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Mexico, New Zealand, Norway, Portugal, Romania, Slovakia, Slovenia, South Africa, Turkey, United Kingdom, Venezuela.

²¹² Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Switzerland, Turkey, United Kingdom, United States of America (30 states), Venezuela.

²¹³ Andorra.

²¹⁴ Andorra, Finland, Luxembourg, Portugal, United Kingdom, United States of America (five states).

²¹⁵ Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, France, Georgia, Germany, Ireland, Japan, Latvia, Lithuania, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Romania, Slovakia, Slovenia, South Africa, Switzerland, Turkey, United States of America (26 states), Venezuela.

Scenario Thirteen:

Underlying document of a notarial certificate contains statements that appear on their face to be false.

157. Responses to this scenario were mixed. Twenty States²¹⁶ advised that in this scenario they would issue an Apostille, with eight States²¹⁷ noting that the Apostille does not relate to the contents and therefore their competent authorities have no responsibility in this regard. Nineteen States²¹⁸ indicated they would not issue an Apostille. The United Kingdom advised that it would contact the notary in case of human error. Switzerland advised that practice varies between cantons: some commented they are not responsible for the contents of the underlying document, while other cantons advised that they would not issue an Apostille in the case of falsity.

158. The Permanent Bureau considers that a Competent Authority should issue an Apostille for valid public documents so long as the origin of the document has been ascertained and its issuance determined to be valid, and should not scrutinise its contents. Only the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears should be scrutinised.

Scenario Fourteen:

Underlying document of a notarial certificate contains offensive or inflammatory language.

159. A majority of responding States would issue an Apostille in this case. Twenty States²¹⁹ indicated they would issue an Apostille, whilst 16 States²²⁰ indicated that they would not. Six States²²¹ noted they are not responsible for the content of a certified copy and may therefore issue an Apostille. The United Kingdom noted that in general they do not read the underlying document, but if they happened to notice something that would offend a reasonable person they would make a judgment call.

160. The Permanent Bureau considers that a Competent Authority should issue an Apostille for valid public documents so long as the origin of the document has been ascertained and its issuance determined to be valid, and should not scrutinise its contents. Only the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears should be scrutinised.

Scenario Fifteen:

Underlying document of a notarial certificate appears on its face to be for an illegitimate, fraudulent or otherwise illegal purpose.

161. A majority of responding States would not issue an Apostille in this circumstance. Thirteen States²²² indicated that they would issue an Apostille, and 21²²³ indicated they would not. Three States²²⁴ advised that they consider that they are not obliged to check

²¹⁶ Australia, Bulgaria, China (Hong Kong SAR), Croatia, France, Germany, Japan, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Poland, Portugal, Romania, Slovakia, Slovenia, Switzerland, Turkey, United States of America (21 states).

²¹⁷ Australia, Japan, Luxembourg, Monaco, New Zealand, Slovakia, Switzerland, Turkey.

²¹⁸ Argentina, Belgium, Czech Republic, Denmark, Ecuador, El Salvador, Finland, Georgia, Germany, Ireland, Latvia, Lithuania, Mexico, Romania, South Africa, Switzerland, United Kingdom, United States of America (10 states), Venezuela.

²¹⁹ Australia, Bulgaria, China (Hong Kong SAR), Czech Republic, Denmark, Finland, France, Germany, Japan, Luxembourg, Mexico, Moldova, New Zealand, Norway, Portugal, Romania, Slovakia, Slovenia, Switzerland, United States of America (25 states).

²²⁰ Argentina, Belgium, Ecuador, El Salvador, Georgia, Germany, Ireland, Latvia, Lithuania, Monaco, Poland, Romania, South Africa, United Kingdom, United States of America, Venezuela.

²²¹ Czech Republic, Japan, Luxembourg, New Zealand, Portugal, Switzerland.

²²² Bulgaria, China (Hong Kong SAR), Denmark, Finland, Germany, Japan, Luxembourg, Moldova, New Zealand, Romania, Slovakia, Switzerland, United States of America (19 states).

²²³ Argentina, Belgium, Ecuador, El Salvador, France, Georgia, Germany, Ireland, Latvia, Lithuania, Mexico, Monaco, Norway, Poland, Portugal, Romania, Slovenia, South Africa, United Kingdom, United States of America (12 states), Venezuela.

²²⁴ Japan, New Zealand, Switzerland.

the content of the underlying document, and even in this case could issue an Apostille for a notarial certificate. The Czech Republic noted the same but indicated such a document could not be certified by a notary. Romania noted that practice is not uniform and Turkey advised that it had not come across such instruments.

162. The Permanent Bureau considers that a Competent Authority should issue an Apostille for valid public documents so long as the origin of the document has been ascertained and its issuance determined to be valid, and should not scrutinise its contents. Only the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears should be scrutinised. The Permanent Bureau notes that the addition of text explaining the limited effects of the Apostille would be particularly useful in this scenario.

Scenario Sixteen:

Apostille requested for a notarial certificate where the underlying document is written in a foreign language.

163. A majority of responding States would issue an Apostille in this circumstance. Twenty-seven States²²⁵ indicated they would issue an Apostille in such circumstances. Six States²²⁶ emphasised that it is the notarial certificate, and not the underlying document, that is issued with an Apostille, and therefore the contents should not be considered since this is the responsibility of the notary. Slovakia noted, however, that the Notary must be able to understand the language. Ireland and South Africa advised that they would require a translation, and South Africa also would require the presence of the original. By contrast, 10 States²²⁷ advised that they would not issue an Apostille in this case.

164. The Permanent Bureau considers that a Competent Authority should issue an Apostille for valid public documents so long as the origin of the document has been ascertained and its issuance determined to be valid, and should not scrutinise its contents. Only the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears should be scrutinised. The Permanent Bureau notes that the addition of text explaining the limited effects of the Apostille would be particularly useful in this scenario. Further, whether or not notaries and equivalent authorities may issue Apostilles in such situations may be the subject of domestic laws and policies. These may circumscribe the documents for which a certification of a copy may be issued.

Scenario Seventeen:

Apostille requested for a notarial certificate where the underlying document is a diploma issued by what is commonly called a diploma mill.

165. A majority of responding States would issue an Apostille in this case. Nineteen States²²⁸ indicated they would issue an Apostille in this scenario. Of those nineteen, six States²²⁹ emphasised that such an Apostille has no reference to the underlying document; it only authenticates the notarial certificate. Twelve States²³⁰ indicated they would not issue an Apostille. Ecuador noted that where a notarial certificate authenticates the signature then an Apostille can be issued. The Czech Republic and Romania indicated

²²⁵ Andorra, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Finland, France, Germany, Japan, Latvia, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Switzerland, Turkey, United Kingdom, United States of America (27 states).

²²⁶ Australia, Japan, Monaco, New Zealand, Slovakia, Switzerland.

²²⁷ Argentina, Bulgaria, Ecuador, El Salvador, Georgia, Ireland, Mexico, South Africa, United States of America (four states), Venezuela.

²²⁸ Andorra, Australia, China (Hong Kong SAR), Denmark, Finland, France, Germany, Japan, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Romania, Slovakia, Slovenia, Switzerland, Turkey, United States of America.

²²⁹ Australia, Japan, Monaco, New Zealand, Romania, Switzerland.

²³⁰ Argentina, Belgium, Bulgaria, Ecuador, El Salvador, Georgia, Ireland, Latvia, Mexico, Norway, South Africa, Venezuela.

they had no experience with such matters; in the case of the Czech Republic, because diploma mills are unknown there.

166. For more information relating to diploma mills and the exploitation of Apostille Convention see Preliminary Document No 5.

Cluster of documents

Scenario Eighteen:

The applicant requests a single Apostille for multiple public documents all signed by the same official.

167. A majority of responding States would not issue an Apostille in this scenario, and 15 States²³¹ indicated they would issue an Apostille. Australia advised that it would bind the documents together before issuing the single Apostille. Ireland advised that it places the Apostille on the first or last page. New Zealand noted that it commonly issues Apostilles in this manner. Portugal would only issue a single Apostille if there is a single recipient, and Slovakia noted that all documents must be bound together so they cannot be separated. However 22 States²³² indicated they would not issue an Apostille. Eleven States²³³ apply a rule that every document must receive one Apostille. Turkey noted that if documents are sequential a single Apostille is made by stapling the documents to each other and sealing the corner of the stapled documents. Switzerland advised that practice differs between cantons: some cantons consider that Apostilles must be issued separately for each signature; other cantons will issue an Apostille if the documents are bound together, or if the receiving State agrees.

168. The Permanent Bureau notes situations do arise where multiple public documents form a single cluster of documents, for which a single Apostille may be requested, for example, in an adoption case, where a cover letter is issued by a public authority indicating that all the relevant documents are enclosed, or where patents are issued for parts of a constituent whole. In such cases an Apostille may be issued for the covering document, but it relates only to the covering document (additional text may prevent confusion in relation to these Apostilles). In situations where the documents are all directly related to the same proceeding and bundled together in a manner which means they cannot be separated, it may be in the interests of efficacy to issue a single Apostille. In the case where a Competent Authority is presented with copies of a public document and asked to issue a single Apostille which will be shared between the copies, then the Apostille should not be issued.

Scenario Nineteen:

Multiple Apostilles are requested for a single document.

169. The vast majority of responding States advised that they would not issue multiple Apostilles in this scenario. Seven States²³⁴ indicated they would issue an Apostille, and 31 States²³⁵ indicated they would not. Seven States²³⁶ specified that they would only issue one Apostille for each document. Georgia advised that it would assess matters on a case-by-case basis depending on the number of documents. Monaco advised that it would be prevented from issuing such Apostilles due to the format of the certificate.

²³¹ Australia, China (Hong Kong SAR), Denmark, France, Germany, Ireland, Luxembourg, New Zealand, Portugal, Slovakia, Slovenia, South Africa, Spain, United Kingdom, United States of America (22 states).

²³² Argentina, Belgium, Bulgaria, Croatia, Czech Republic, El Salvador, Finland, Georgia, Germany, Greece, Japan, Latvia, Lithuania, Mexico, Moldova, Monaco, Poland, Romania, Switzerland, Turkey, United States of America (six states), Venezuela.

²³³ Argentina, Belgium, Bulgaria, Czech Republic, El Salvador, Georgia, Greece, Monaco, Romania, Spain, Venezuela.

²³⁴ China (Hong Kong SAR), France, Norway, Slovakia, Spain, United Kingdom, United States of America (22 states).

²³⁵ Argentina, Australia, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Poland, Portugal, Romania, Slovenia, South Africa, Switzerland, Turkey, United States of America (six states), Venezuela.

²³⁶ Belgium, El Salvador, Greece, New Zealand, Slovakia, Switzerland, Venezuela.

Bulgaria indicated that two Apostilles would only be issued for powers of attorney for real estate transactions.

170. The Permanent Bureau considers that a single Apostille should be issued.

State of Destination

Scenario Twenty:

Applicant does not inform Competent Authority of destination State.

171. Responses to this scenario were mixed. Eighteen States²³⁷ advised that they would issue an Apostille. Finland specified that the State of destination is always asked; New Zealand would follow this matter up with the applicant if no State of Destination were provided. Slovakia would issue an Apostille to a demanding applicant together with a warning that an Apostille will only be accepted in Contracting States. Twenty-one States²³⁸ advised that they would not issue an Apostille. Eight States²³⁹ specified that they can only issue Apostilles if they are to be sent to State parties and therefore they require applicants to inform them where the document will be sent before issuing the Apostille.

172. The Permanent Bureau recommends that Competent Authorities request applicants to specify the State of Destination, and to refuse to issue an Apostille if no response is given.

Scenario Twenty-one:

Applicant informs Competent Authority Apostille is for non-State party and requests an Apostille.

173. The majority of responding States would not issue an Apostille in this scenario. Ten States²⁴⁰ indicated they would issue an Apostille in this scenario, whilst 24 States²⁴¹ indicated they would not issue an Apostille. Eight States²⁴² specified that they would not issue an Apostille, as it would not be accepted, and would direct the applicant towards the legalisation procedure.

174. The Permanent Bureau considers that an Apostille should not be issued in such circumstances. Article 1 of the Convention provides that the Convention applies to “public documents ... which have to be produced in the territory of another Contracting State”. If the applicant does not intend to produce the public document in another Contracting State, then the Convention does not apply, and an Apostille should not be issued.

Scenario Twenty-two:

Applicant requests an Apostille with additional features (“bells and whistles”) in order to resemble more closely Apostilles issued by the destination State.

175. A majority of responding States indicated that they would issue an Apostille in its normal or original format, but would not acquiesce to the request to modify their

²³⁷ Bulgaria, China (Hong Kong SAR), Denmark, Ecuador, Finland, Germany, Ireland, Japan, Lithuania, Mexico, Moldova, New Zealand, Poland, Slovakia, South Africa, Spain, United Kingdom, United States of America (seven states).

²³⁸ Andorra, Argentina, Australia, Belgium, Croatia, Czech Republic, El Salvador, France, Georgia, Germany, Greece, Latvia, Luxembourg, Monaco, Portugal, Romania, Slovenia, Switzerland, Turkey, United States of America (24 states), Venezuela.

²³⁹ Andorra, Australia, El Salvador, Greece, Monaco, Switzerland, Turkey, Venezuela.

²⁴⁰ Bulgaria, China (Hong Kong SAR), Denmark, Japan, Lithuania, Luxembourg, Poland, South Africa, United Kingdom, United States of America (14 states).

²⁴¹ Argentina, Belgium, Croatia, Czech Republic, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Latvia, Moldova, Monaco, New Zealand, Norway, Portugal, Romania, Slovakia, Slovenia, Switzerland, United States of America (17 states), Venezuela.

²⁴² Greece, El Salvador, Finland, Monaco, New Zealand, Norway, Romania, Switzerland.

Apostille to resemble Apostilles issued in the destination State. Twenty-nine States²⁴³ advised that they would issue an Apostille in its normal or original format and six States²⁴⁴ indicated they would not. Four States²⁴⁵ advised that they may issue an Apostille in the form requested. China (Hong Kong SAR) advised that Apostilles would be issued on a case-by-case basis. Australia indicated that it may accede to the requests as long as these do not interfere with the integrity of the service being delivered. Luxembourg advised that the ribbons and the colours should be added by a notary prior to submitting it to the Competent Authority. The United States of America noted that some customers add ribbons later.

176. The Permanent Bureau considers that a Competent Authority is permitted under the Convention to determine for itself the form of an Apostille, and has no obligation to issue Apostilles in a special form requested by the applicant. The form of an Apostille, and the manner in which it is affixed to the underlying public document, are matters within the discretion of the Competent Authority, subject to the requirement that the Certificate conforms to the Model Certificate annexed to the Convention. Each State is entitled to follow its own practice.

177. In isolated cases, however, the Permanent Bureau is aware that Apostilles are refused on the basis that the Apostille is not in the form used by Competent Authorities of the State of Destination, or is not affixed to the public document in the same manner as is the practice of the State of Destination. This practice is emphatically in violation of both the letter and the spirit of the Convention, and contrary to Conclusion and Recommendation No 16 of the 2003 Special Commission.

178. It is recommended, however, that when the applicant provides evidence that an Apostille has been rejected in the State of Destination, the Competent Authority should write a letter or note to the body that has rejected the Apostille explaining the domestic methods and procedures for affixing and issuing Apostilles in its State. This would contribute to the understanding of the practices of the issuing State and would avoid further rejections of Apostilles.

Specific problems with the Apostille Convention (Q. 45)

179. States were asked if they had particular problems arising from the operation of the Apostille Convention (Q. 45). Although a majority, 25 States,²⁴⁶ advised that they had not had any specific problems, 12 States²⁴⁷ advised that specific problems had arisen. Six States²⁴⁸ advised that they have experienced difficulties with the notion of “public document” contained in Article 1 of the Apostille Convention. Monaco in answering Q. 11 indicated that it had encountered problems with States demanding formalities outside the scope of the Convention and other States refusing to accept certified copies.

180. Three States²⁴⁹ advised that problems arose relating to the measurements of the border of the Apostille Certificate, and Apostilles were rejected because the Apostille Certificate did not have identical measurements to the model certificate on the Hague Conference website. New Zealand advised that it has amended the size of the border in order to prevent further problems, but considers that this is the equivalent of adding bells and whistles (see Q. 44, Scenario 22). New Zealand also noted that Apostilles were

²⁴³ Andorra, Argentina, Belgium, Bulgaria, Czech Republic, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Moldova, Monaco, New Zealand, Norway, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (five states), Venezuela.

²⁴⁴ Croatia, Denmark, Ecuador, Lithuania, Mexico, Poland.

²⁴⁵ Australia, China (Hong Kong SAR), Luxembourg, United States of America (27 states).

²⁴⁶ Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Norway, Poland, Portugal, Slovakia, Slovenia, Turkey, United Kingdom, Venezuela.

²⁴⁷ Andorra, Argentina, Australia, France, Georgia, Monaco, New Zealand, Romania, South Africa, Spain, Switzerland, United States of America.

²⁴⁸ Argentina, Australia, France, Georgia, Monaco, South Africa.

²⁴⁹ New Zealand, Spain, United States of America.

rejected for various other reasons: some multi-page documents were not numbered; there was no proof of the notarial appointment which was subsequently demanded; and because of variations in appearance of the underlying public documents. The United States of America advised that its Apostilles have also been rejected because of the method used to attach its Apostilles.

181. Two States²⁵⁰ advised that some Contracting States have imposed time limits on the validity of some underlying public documents, such as civil status documents, certificates of nationality, criminal records, etc.

182. Switzerland advised that it had very few problems and that generally the Convention is widely used. However three European States do not accept Apostilles in French or German, and cantons have found it necessary to translate the Apostille into the language of the State of Destination. One State requested further legalisation through consular or diplomatic methods in addition to the Swiss Apostille.

183. The Permanent Bureau does not consider that the practice of imposing time limits on the validity of some public documents infringes on the provisions of the Apostille Convention. Such a requirement would entirely depend on the internal law of the State of Destination.

In Sum,

- Almost all responding States will issue an Apostille for a person who requests the Apostille but is not the person who will present it (scenario 1).
- Practice is divided on the question whether an Apostille should be issued for a public document that is so old that a sample of the signature or stamp is not included in the register (scenario 2).
- Practice is divided on whether an Apostille should be issued for a public document that has expired (scenario 3).
- The majority of responding States would check with the authority that issued a public document before issuing an Apostille for a public document where the name, but not the signature, matches the register (scenario 4), or where the signature matches, but the name varies (scenario 5).
- Most responding States would issue an Apostille for a certified copy of a passport issued by their own State, although a small number of responding States advised that internal law or policy prohibited them from doing so (scenario 6).
- Most responding States would not issue an Apostille for a certified copy of a passport issued by a foreign State (scenario 7), or for a certified copy of an identity document issued by a foreign State (scenario 9).
- Most responding States would issue an Apostille for a certified copy of an identity document (scenario 8).
- A majority of responding States would not issue an Apostille for a valid notarial certificate certifying that the underlying document is a true copy, where it is not attached to the document to which it relates (scenario 10).
- A majority of responding States would not issue an Apostille for a certified copy of a document where the relevant authority (solicitor, notary, etc.) has forgotten to sign the document (scenario 11) or to place a stamp on the document (scenario 12).
- Responses were mixed on the question whether an Apostille should be issued for a notarial certificate certifying that the underlying document is a true copy, where the underlying document contains statements that appear on their face to be false (scenario 13).
- A majority of responding States would issue an Apostille for a notarial certificate certifying that the underlying document is a true copy, where the underlying document:

²⁵⁰ France, South Africa.

- contains offensive or inflammatory language (scenario 14);
 - is written in a foreign language (scenario 16); or
 - is a diploma issued by a “diploma mill” (scenario 17).
- A majority of responding States would not issue an Apostille for a notarial certificate certifying that the underlying document is a true copy where the underlying document appears on its face to be for an illegitimate, fraudulent, or otherwise illegal purpose (scenario 15).
- Most responding States will not issue a single Apostille for a cluster of public documents signed by the same official (scenario 18).
- Almost all responding States will not issue multiple Apostilles for a single public document (scenario 19).
- Responses were mixed on the question whether an Apostille should be issued if the applicant does not inform the Competent Authority of the State of Destination (scenario 20).
- Most responding States will not issue an Apostille if the applicant advises that it is intended for use in a non-State Party (scenario 21).
- A majority of responding States will not issue an Apostille with “bells and whistles” to cause it to appear more similar to the Apostilles issued in the State of Destination.
- States also reported specific difficulties they had encountered with the Convention, including:
 - some States Parties reject Apostilles issued by other States Parties on the basis of the format, appearance or method of attachment of the Apostille, or because of the language in which the Apostille is written;
 - the interpretation of Article 1(3) *b*);
 - some States rejecting Apostilles issued for certified copies of documents;
 - some States requiring that Apostilles be legalised;
 - the interpretation of the expression “public document”;
 - the relationship between the Apostille Convention and other conventions and treaties;
 - the time limits on the validity of underlying public documents.

184. In light of the specific difficulties that responding States have reported, the Permanent Bureau considers that there would be utility in the Special Commission repeating and reaffirming the following Conclusions and Recommendations of the 2003 Special Commission:

“The SC underlined the importance of the principle that an Apostille that has been established according to the requirements of the Convention in the State of issuance must be accepted and produce its effects in any State of production. With a view to further facilitating free circulation of Apostilles, the SC recalled the importance of the Model certificate annexed to the Convention. The SC recommended that Apostilles issued by competent authorities should conform as closely as possible to this model. However, variations in the form of an Apostille among issuing authorities should not be a basis for rejection as long as the Apostille is clearly identifiable as an Apostille issued under the Convention. The SC firmly rejects, as contrary to the Convention, isolated practices among States party that require Apostilles to be legalised.

The SC noted the *variety of means for affixing Apostilles* to the public document. These means may include rubber stamp, glue, (multi-coloured) ribbons, wax seals, impressed seals, self-adhesive stickers, etc.; as to an allonge, these means may include glue, grommets, staples, etc. The SC noted that all these means are acceptable under the Convention, and that, therefore, these variations cannot be a basis for the rejection of Apostilles.

The SC stressed that Apostilles may *not be refused in a State of production on the grounds that they do not comply with that State's national formalities and modes of issuance.*"²⁵¹

185. However, the Permanent Bureau retains reservations about the security issues raised by the affixing of Apostilles by methods that easily allow for the Apostille or the *allonge* to become detached (such as when the *allonge* was simply stapled to the public document).

E. Time requirements for Apostilles (Q. 46)

186. The majority of responding States do not place a time limit on the validity of Apostilles (Q. 46). Of the 32 responding States,²⁵² 29²⁵³ advised that they do not place any such limits. Only Turkey advised that it places a time limit on the validity of foreign Apostilles, and only where an expiry date is included on the underlying public document. For documents which do not expire, there is no time limit on the Apostille (*e.g.*, diplomas). Japan and Switzerland noted that no integrated information is available on rejection as each individual authority is autonomous and has the capacity to reject an Apostille. The United States of America advised that its Apostilles have been rejected because the notary's commission, which was valid when the Apostille was issued, had expired at the time of production.

In Sum,

- It is rare that States subject foreign Apostilles to time limits regarding validity, although time limits may arise from the underlying public document.

F. Legalisation of Apostilles (Q. 47)

187. Very few responding States reported that they had experienced any difficulties with other States requiring Apostilles to be legalised (Q. 47). Of the 37 responding States,²⁵⁴ only Switzerland indicated it had any difficulties with Apostilles being legalised. Those difficulties are set out in their response to Question 45, analysed above. All 36 other States²⁵⁵ indicated they had not had such problems.

In Sum,

- Only one responding State reported that another State Party had required an Apostille to be legalised.

G. The electronic Apostille Pilot Program (e-APP) (Q. 48–49)

188. States were asked whether or not they were considering becoming a part of the electronic Apostille Pilot Program (e-APP), which provides the software needed for States to start issuing and / or registering Apostilles electronically, rather than in paper format.

²⁵¹ Conclusions and Recommendations Nos 13, 16 and 18 adopted by the Special Commission of 2003.

²⁵² Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Japan, Latvia, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Turkey, United Kingdom, United States of America (28 states), Venezuela.

²⁵³ Andorra, Argentina, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Latvia, Lithuania, Luxembourg, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, United Kingdom, United States of America (28 states), Venezuela.

²⁵⁴ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (29 states), Venezuela.

²⁵⁵ Andorra, Argentina, Australia, Belgium, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Turkey, United Kingdom, United States of America (29 states), Venezuela.

189. The electronic Apostille Pilot Program was launched by the Hague Conference (in co-operation with the National Notary Association of the USA) in 2006. This innovative program not only allows for dramatic cost savings, but also offers very effective means to combat fraud and leads to a *level of security of Apostilles which by far exceeds current standards in a paper-only environment*. The e-APP has two components: the issuance of electronic Apostilles (e-Apostilles) and the operation of electronic Registers (e-Registers). These two components are independent from each other; they may be implemented simultaneously or consecutively (in no specific order). Under the e-APP model for e-Apostilles, a Competent Authority may use out-of-the box PDF technology to issue e-Apostilles and digitally sign these Apostilles with the help of a digital Certificate. As regards the operation of e-Registers, the e-APP offers fully open-source software which enables any Competent Authority to register all of the Apostilles that it issues (independently of whether they have been issued in paper or in electronic form) in an e-Register which is accessible online so that anybody presented with an Apostille (purportedly) issued by that Competent Authority may go on-line, access the relevant e-Register and check the origin of said Apostille with the help of the date and number that the Apostille Certificate bears. It is important to stress that both techniques put forward under the e-APP (*i.e.*, the PDF solution for e-Apostilles and the open-source software for e-Registers) are *suggestions only* – any Competent Authority may of course buy or develop any other (proprietary) software to achieve the same results. Further information on the e-APP is available at the website < www.e-APP.info >.

190. The responses suggest that there is considerable interest in the program (Q. 48). Of the 38 responding States,²⁵⁶ 21²⁵⁷ advised that they were studying and actively considering implementing the e-Apostille, the e-Register, or both components of the e-APP. Finland, Georgia and Ireland specified that they are considering adopting both components of the e-APP. Fourteen States²⁵⁸ advised that they have not yet given consideration to the issue, and only three States²⁵⁹ have considered adopting the e-APP and decided against it. Romania advised that it had temporarily decided against implementing the e-APP until its register is centralised.

191. A number of States further advised that they had decided to implement elements of the e-APP. The Czech Republic advised that e-Registers and then e-Apostilles will be implemented. New Zealand is in the process of implementing both components and the process should be completed by the end of this year. Ecuador advised that it is implementing its own software system within the next six months.

192. Australia indicated that it supports the e-APP in principle but needs reassurance on certain issues such as the method of implementation, resource implications and risk of electronic fraud, before it could consider participating in the program.

193. Bulgaria advised that since 24 November 2008 it had started to operate the system for e-Apostilles and provided a website in which this information can be found. The US Department of State Authentication Office noted that it is prepared to issue electronic Apostilles. Further, one US state indicated that it has successfully submitted an e-Apostille to Colombia.

²⁵⁶ Andorra, Argentina, Australia, Belgium, Bulgaria, China (Hong Kong SAR), Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Georgia, Germany, Greece, Ireland, Japan, Latvia, Lithuania, Luxembourg, Mexico, Moldova, Monaco, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Switzerland, Turkey, United Kingdom, United States of America (27 states), Venezuela

²⁵⁷ Andorra, Argentina, Australia, Belgium, Bulgaria, Czech Republic, Denmark, Ecuador, Finland, France, Georgia, Ireland, Moldova, New Zealand, Portugal, Slovakia, Slovenia, Switzerland, United Kingdom, United States of America (seven states), Venezuela.

²⁵⁸ China (Hong Kong SAR), El Salvador, Germany, Greece, Japan, Latvia, Lithuania, Luxembourg, Mexico, Poland, Romania, South Africa, Turkey, United States of America (20 states).

²⁵⁹ Croatia, Monaco, Norway.

194. Responding States appear to find the e-APP website (< www.e-APP.info >) very useful (Q. 49). Twenty-two States²⁶⁰ advised that they consider the e-APP website to be “very useful” and a further 14 States²⁶¹ consider it to be “useful”. Three states of the United States of America considered the website not useful. Mexico noted the website would be more useful if it were in all the languages of the States that have signed the Convention. Switzerland made a similar comment and noted it would be useful if languages other than English and French were used, for example German.

In Sum,

- Most States are actively considering implementing the e-APP, and several have decided in favour of implementing it.
- Some States have already implemented one of two components of the e-APP.
- The majority of States consider the e-APP website to be very useful.

²⁶⁰ Argentina, China (Hong Kong SAR), Croatia, Denmark, Ecuador, Finland, France, Georgia, Ireland, Latvia, Luxembourg, Monaco, New Zealand, Norway, Portugal, Romania, Slovenia, South Africa, Spain, Turkey, United Kingdom, United States of America (eight states).

²⁶¹ Andorra, Australia, Belgium, Bulgaria, Czech Republic, El Salvador, Germany, Japan, Mexico, Moldova, Poland, Slovakia, Switzerland, United States of America (14 states).