Explanatory Report

A. GENERAL REMARKS

Registered partnership is a relatively recent institution but is nowadays recognised and regulated, or is in the process of becoming so, in an increasing number of States, particularly those that are members of the ICCS. This status for couples, which is a half-way house between cohabitation and marriage and is often but not necessarily reserved for persons of the same sex, lacks any uniformity as it has been fashioned by each State as it saw fit. In some States it produces effects akin to those of marriage, whereas in others it is no more than a contract governing the property aspects of living together. It is generally very easy to register a partnership, in that there are no conditions relating to nationality or even, in some cases, to residence in the State of registration. Yet the existence of a foreign element suffices to give rise to delicate problems of private international law.

Through this Convention the ICCS has endeavoured to solve civil-status problems arising in a Contracting State in relation to persons bound by a partnership registered in another State (whether Contracting or not) or whose partnership has been dissolved or annulled in another State. This Convention does not pretend to regulate issues of conflict of laws arising in the State where the partnership is formed, dissolved or annulled, which issues remain a matter for that State's private international law. The Convention, which has recourse to the method previously used by Convention No. 31 on the recognition of surnames, signed at Antalya on 16 September 2005, governs only the recognition of the validity of a partnership, of its dissolution or annulment and of the civil-status effects arising therefrom. In this respect, it should be of interest not only to States which know the institution of partnership, but also to all others, in that they may at some point have to make a decision on the civil status of a person who has formed a partnership abroad and who wishes, for example, to marry a third person on their territory.

The Convention defines the relationships to which it applies (Art. 1 and Art. 16 § 1), lays down the principle of recognising the validity of a partnership (Art. 2), sets out the civil-status effects which must be recognised (Art. 3 to 6) and lists by way of limitation the grounds for non-recognition (Art. 7). Article 8 stipulates that the dissolution or annulment of a partnership is to be recognised to the extent that it affects the civil-status effects that are to be recognised under the Convention. Provision is also made for the issue of certificates designed to facilitate proof of the formation, dissolution or annulment of partnerships, for information to be given to the authorities of other States (Art. 9, 10 and 13) and for the formation, dissolution or annulment of partnerships to be entered in the relevant registers of the State of recognition if its law so provides (Art. 11 and 12). Article 15 is a transitional provision. Article 20 sets out the permitted reservations. The other Articles (Art. 16 § 2 et seq. to 19 and 21 to 23) are the usual final clauses.

B. COMMENTARY ON THE PREAMBLE AND THE ARTICLES

The Preamble defines the precise aim of the Convention which is limited to recognition of the formation, dissolution or annulment of a registered partnership, without regulating the law applicable thereto.

Article 1

This Article gives a definition of partnership within the meaning of the Convention, namely a commitment made by two persons to live together. This covers partnerships producing effects similar to those of a marriage, such as those existing in the Netherlands, Germany, the United Kingdom or

Switzerland, and also partnerships having mainly property effects, as in Belgium, France or Luxembourg. The Convention provides that each State is responsible for designating, by means of a declaration made at the time of signature, ratification, acceptance, approval or accession, the institutions under its law which correspond to this definition (Art. 16 § 1), to the extent that its law knows such institutions. In the case of a partnership registered in a non-Contracting State, it will be for the Contracting State in which recognition is sought to assess whether this really is a partnership within the meaning of the Convention.

The definition covers partnerships between persons of the same sex or different sex. However, there is an option of reserving the right not to apply the Convention to partnerships formed between persons of different sex (Art. 20 § 1(a)). This reservation should enable States whose law prevents these persons from availing themselves of the legal form of partnership to ratify the Convention.

Article 1 expressly excludes marriages, even between persons of the same sex. This does not mean that Contracting States cannot recognise such marriages or some of their effects, such as the impediment to marrying a third person, but only that such recognition is not regulated by the Convention and is a matter for the national law of each State.

The only relationships falling within the scope of the Convention are those giving rise to registration; cases of cohabitation that do not give rise to any formality are therefore excluded. Registration is to be understood as meaning entry in a public register, provided that this can be consulted by third parties, even in limited numbers. The mere recording of the relationship in a notarial instrument cannot be assimilated to registration.

More often than not registration will create the partnership. Some laws, however, know a declaratory registration whose effects will be retroactive to the date when the partners formed the relationship. Once registration has occurred, these relationships are also covered by the Convention, which contains nothing to prevent recognition of the retroactive effects of that registration.

The Convention does not determine with which public authority a partnership covered by the Convention is to be registered. Depending on national law, this may be a civil registrar, a court or any administrative authority.

Article 2

This Article, whose wording echoes that of Article 9 of the Hague Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages, lays down the principle of recognition in the Contracting States of the validity of a partnership registered in a State. It must be read in conjunction with Article 14 § 1, which assimilates a registration occurring abroad before a State's consular authorities to a registration occurring in that State.

Article 2, just like the subsequent Articles, does not require the partnership to have been registered in a Contracting State. The importance of recognition requires that its effect should not be limited to partnerships registered in a Contracting State. However, certain provisions of the Convention, such as those obliging the State of registration to issue a certificate or provide information (Art. 9 and 10), cannot be applied where the partnership was registered in a third State.

Recognition of the validity of a partnership does not imply recognition of all its effects. This is because the Convention requires only recognition of the civil-status effects indicated in Articles 4 to 6 and in no way prejudges the recognition of other effects (maintenance, inheritance, property, tax, social, etc.) of

the partnership, this being left to the ordinary law, particularly the private international law, of each Contracting State. However, if the law applicable in a Contracting State to one of these other effects makes it dependent on the validity of the partnership, Article 2 of the Convention requires this validity to be recognised. For example, if, under the conflict-of-laws rule of the State in which the court is hearing the case, the law applicable to a claim for maintenance made by one of the partners against the other subordinates the success of this claim to the existence of a valid registered partnership, the court must allow this claim where the other conditions for the claim are satisfied, unless the validity of this partnership cannot be recognised due to a ground for refusal of recognition laid down by Article 7.

Article 20 § 1(b) of the Convention provides for the possibility of reserving the right to exclude the application of Article 2. A State making this reservation would undertake to recognise only the effects indicated in Articles 4 to 6, i.e. the impediment to marriage or a new partnership with a third person and the effect on the surname of partners.

Article 3

This Article is an introduction to those that follow. Its importance lies in emphasising that the effects of a partnership which must be recognised under the Convention are solely the civil-status effects indicated in Articles 4 to 6. Recognition of other possible effects of the partnership, such as maintenance obligations, title to inheritance or the effect on the surname of the child or children of one of the partners, is outside the scope of the Convention.

Article 3 also indicates, although this is repeated in subsequent Articles, that the effects to be recognised are in principle those prescribed by the law of the State of registration of the partnership (see, however, below on Article 5) and not those prescribed by the law of the State of recognition. The law of the State of registration of the partnership must be understood to mean the law regarded as applicable by the State of registration, which more often than not will be its substantive law.

Like Article 2, this Article must be read in conjunction with Article 14 § 1, which assimilates a registration occurring abroad before a State's consular authorities to a registration occurring in that State.

Article 4

The civil-status effect of a partnership which is most commonly encountered is the impediment to marrying or forming a partnership with a third person, i.e. a person other than one's partner. Recognition of this effect is important even in States whose law does not know the institution of partnership. This seeks to avoid, particularly in those States, the development of situations akin to bigamy.

However, this effect is not produced under all laws. In some States, marriage dissolves the partnership by operation of law. In other States, there may be degrees of impediment, with the partnership being an impediment to certain types of relationship, but not to others. Hence the importance of specifying that impediment to a new relationship (marriage or partnership) is an effect that will be produced only to the extent that the law of the State of registration provides. This solution is in line with the expectations of the parties, who are in this way guaranteed that the consequences of their commitment will be respected if they settle in another Contracting State.

It is, of course, a partnership that has not been dissolved which constitutes, where applicable, an impediment to marriage. Unlike Article 8, Article 4 does not specify that the dissolution which would allow the conclusion of a marriage or the formation of a new partnership must have occurred or be recognised in the State of registration. A Contracting State should not be prevented from allowing a former partner to marry or form a new partnership in the case where the dissolution of the previous partnership has been pronounced by its courts or recognised by itself without being recognised in the State of registration.

Like Articles 2 and 3, this Article must be read in conjunction with Article 14 § 1, which assimilates a registration occurring abroad before a State's consular authorities to a registration occurring in that State.

Article 5

This Article provides for recognition of the partnership's effect on the surname of the partners. States allowing spouses to choose, by declaration, the surname that they will bear after marrying often extend this possibility to cases where partnerships are formed. The same is true of the declaration that a former spouse may make about the surname that he or she will bear after the marriage is dissolved or annulled. Article 5 provides for recognition of these declarations under precisely the same conditions as Articles 1 and 2 of the aforementioned Convention No. 31 on the recognition of surnames do for marriage.

The parallelism between this Article 5 and the corresponding provisions of the Convention on the recognition of surnames means that the only declarations which are to be recognised under the terms of this Article 5 are those that are made in a Contracting State and involve partners at least one of whom is a national of a Contracting State. Those declarations are to be recognised even if the partnership has itself been registered in a non-Contracting State.

Paragraph 1

The rule adopted takes a favourable attitude towards recognition of declarations made by the partners or one of them. Such recognition is to be afforded if the declaration is made either in a Contracting State of which at least one of the partners is a national or in the Contracting State where both partners are habitually resident on the day of the declaration.

For the first case (declaration in the Contracting State of which one of the partners is a national), the Article applies even if the declarant is also a national of a non-Contracting State and even if the couple are habitually resident in another State, wherever it may be. For the second case (declaration in the Contracting State where they both habitually reside), the Article applies even if neither partner is a national of that State. The Convention does not regulate the case of a declaration made in a non-Contracting State where both partners are habitually resident, even where one or both of them has or have the nationality of a Contracting State.

The Article does not require that the declaration be made at the time of the partnership's formation in order to be recognised. The State where it is made may allow partners to choose a partnership surname without setting a time-limit for doing so.

The Article does not define the notion of habitual residence, any more than do private-international-law Conventions in which it is frequently utilised. The phrase "the State where both partners are habitual residents" is to be taken to mean the State where both partners have fixed their habitual

residence, even if they do not live under the same roof. From the temporal point of view, the habitual residence to be taken into account is the one existing at the time of the declaration.

The reference in this Article to a declaration made in a Contracting State of which the person concerned is a national must be read in conjunction with Article 14 § 2, which assimilates a declaration made abroad before a State's consular authorities to a declaration made in that State.

Paragraph 2

Paragraph 2 of Article 5 also provides for recognition, under the same conditions as in the Convention on the recognition of surnames (Art. 2 § 1), of a declaration made by a former partner, after the partnership is dissolved or annulled, that he or she is reverting to a surname that he or she bore previously or is keeping the surname that he or she bore during the partnership.

Paragraph 2 applies in all cases where the partnership is dissolved, whether as a result of a court decision, mutual agreement, a unilateral declaration of intent or the death of one of the partners.

Paragraph 2 deals with case where the effects of the dissolution on the surname of one of the partners are the subject of a declaration on his or her part, electing either to revert to a surname borne previously or, on the contrary, to keep the surname borne during the partnership. The Convention takes a very favourable attitude towards recognition of declarations of this kind, by laying down that recognition is to be afforded when the declaration was made either in the Contracting State or one of the Contracting States of which the partner concerned is a national or in the Contracting State where he or she was habitually resident on the day of the declaration.

This paragraph 2 does not extend to partnerships the provision, appearing in the aforementioned Convention on the recognition of surnames (Art. 2 § 2), relating to the reversion by operation of law of a former spouse, in the event of dissolution of the marriage, to the surname borne before the marriage. Provision for such reversion does not currently appear to be made by any law on partnerships.

Permitted reservations

This Convention allows any Contracting State to reserve the right not to recognise the effects of the formation, dissolution or annulment of a registered partnership on the surname of the partners. (Art. 20 § 1(c)). This is because, if a State wishing to become party to this Convention but not to the aforementioned Convention on the recognition of surnames, was unable to make this reservation, it would find itself in the paradoxical situation of having to recognise the effect of a partnership on the surname of the partners without being obliged to recognise the effect of a marriage on the surname of the spouses.

A State that did not make this reservation could, however, reserve the right to limit its obligation to recognise the effect of the formation of a partnership on the surname of the partners under the same conditions as it could limit its obligation to recognise the effect of a marriage on the surname of the spouses. In this respect, Article 20 § 1(d) of this Convention echoes the terms of Article 14 § 1 of the aforementioned Convention on the recognition of surnames. A State may therefore reserve the right to recognise a declaration referred to in paragraph 1 that affects the surname of one of its nationals, only if it is made in the State where both partners are habitually resident and if one of the partners is a national of the latter State. The object of this reservation is therefore to make recognition dependent on the existence of connecting links that are cumulative (common habitual residence + nationality of one of the partners) rather than simply alternative (common habitual residence or nationality of one of the partners).

Article 6

This Article regulates the case of successive partnerships formed between the same two persons. The practical example is that of two persons who, having formed a partnership in one State, settle in another State. They then form a new partnership in this second State, either because the previous partnership is not recognised there or because it does not produce there the effects of the local partnership. For example, the persons concerned formed in the first State a contractual-type partnership which does not have any civil-status effects, so in the second State they form a marriage-partnership which does produce these effects. Or, on the other hand, they formed a marriage-partnership in the first State but because this is not recognised in the second State, they form a contract-partnership there which will allow them to enjoy various tax or social benefits. The scenario of two successive marriage-partnerships will be much rarer as the countries where such partnerships exist generally recognise, without any need for a Convention, partnerships of the same type registered abroad and allow the partners to enjoy the effects attached to partnership by their own law, even if they are not produced under the law of the State where the partnership originated.

In the case of two successive partnerships, the question may arise, in a third State which is *ex hypothesi* a Contracting State, as to which of the two successive partnerships is the one whose civil-status effects provided for by Articles 4 and 5 of the Convention should be recognised. The problem would be the same if there were more than two partnerships. This is the question that Article 6 answers. It rules out the solutions that would have involved accepting only the effects produced by the first or second (or nth) partnership and opts for the solution of accumulating the civil-status effects produced by the successive partnerships. In the first example (passage from a contract-partnership to a marriage-partnership), the civil-status effects produced by the second partnership (impediment to marriage and effect on surname) will be recognised. The reason why the partners formed this second partnership was precisely to obtain effects, including the civil-status effects, that the first partnership did not produce and there can be no objection to that. In the second example (passage from a marriage-partnership to a contract-partnership), the same civil-status effects, this time produced by the first partnership, will be recognised. The reason why the partners formed the second partnership without dissolving the first was because they intended to retain the effects, particularly the civil-status effects, of that first partnership. The second partnership was formed only to obtain other benefits (tax, social) which they were unable to obtain due to non-recognition of the first partnership in the second State.

The scenario could arise, albeit very rarely, of successive partnerships producing contradictory or incompatible civil-status effects. As regards the impediment to marriage or partnership with a third person, if only one of the successive partnerships provides for this impediment, there is no contradiction. Only that one partnership produces this civil-status effect and it is this effect which will be recognised. As regards the effects of partnership on the surname of the partners, any divergences between the laws governing the successive partnerships should not pose any difficulty as Article 5 provides for recognition only of declarations made by one or both partners. Any declaration made under one of those laws will be recognised, even if the other law or laws would not have permitted this.

Like Articles 2, 3 and 4, this Article must be read in conjunction with Article 14 § 1, which assimilates a registration occurring abroad before a State's consular authorities to a registration occurring in that State.

Article 7

This Article lists by way of limitation the grounds for non-recognition of a partnership (i.e. its validity and civil-status effects provided for in Articles 4 to 6) which may be invoked by the Contracting States.

The first ground allows the State where recognition is sought to make recognition dependent on compliance with the rules on prohibited degrees of relationship (including relationship by marriage) prescribed by its law on partnership or marriage.

The second ground allows the recognition of situations which would be akin to polygamy to be avoided. It may not be applied if the formation of the partnership whose effects are subject to recognition has led, by operation of law, to the previous partnership being dissolved. This dissolution by operation of law can result only from the law of the State where the previous partnership was registered and not from the law governing capacity to enter into a new relationship.

Point 2 refers, as do points 3 to 5, to the time of the declaration of intent before the competent authority and not to the time of registration. This is because, under some laws, the event that constitutes the creation of the partnership is the declaration of intent by the partners before the authority. Under other laws it is prolonged cohabitation for a given period of time. Registration may not occur until later, on the initiative of the administrative authorities and without the partners being present, and will amount to a declaration and not to a creation of a partnership.

If the declaration of intent or application for registration of the partnership for which recognition is sought, although made after the dissolution of a marriage or previous partnership, constitutes the declaration of a relationship formed before said dissolution, the requested State may consider that recognition of that relationship registered as a partnership is manifestly incompatible with its public policy.

The third and fourth grounds allow for recognition of partnerships to be refused where these have been formed by persons who are too young, who do not have the required mental capacity or who have not freely consented.

The fifth ground for non-recognition is based on the absence of any connection between the State of registration of the partnership and the situation of the partners. A Contracting State may refuse to recognise a partnership formed in a foreign State with which neither of the partners was connected, by nationality or habitual residence, at the time of the declaration of intent (for the meaning of this expression, see above on the second ground for refusal of recognition).

The sixth ground for refusal of recognition is manifest incompatibility with public policy. This ground could apply, for example, to a partnership of convenience, formed solely in order to obtain a residence permit.

Article 8

This Article provides for recognition of the dissolution or annulment of a partnership. The terms of dissolution and annulment of the partnership must be broadly interpreted. They cover parallel and similar institutions such as the declaration of invalidity which, under certain laws, is distinct from annulment in the strict sense.

Paragraph 1

The only dissolution or annulment which must be recognised under the Convention is that which occurred or is recognised in the State – which, it is recalled, may be a non-Contracting State – where the partnership was originally registered, even if the dissolution or annulment is not registered there. The Convention does not lay down any rule requiring the State of registration to recognise a dissolution having occurred in another State. Such recognition therefore depends on the ordinary law of the State of registration. A dissolution that is not recognised in the State of origin is not covered by the Convention. Its recognition is not prohibited by the Convention but simply falls under the ordinary law of each of the Contracting States.

The text specifies that dissolution or annulment shall be recognised to the extent that it affects the effects which the partnership is to be recognised as having under Articles 2 to 7, i.e. the validity in principle of the partnership, the impediment to marriage and partnership with a third person and the effect on the surname. The effects of a dissolution that must be recognised in this respect are those prescribed by the law of the State where the partnership was originally registered, which may be different from those prescribed by the law of the State where the dissolution has occurred or by the law of the requested State.

In the case of successive partnerships between the same persons, referred to in Article 6, the question may arise as to the consequences of the dissolution of one of these partnerships on the others. The answer is that it is for the law of the State which registered one of these partnerships to determine whether this partnership is dissolved due to the dissolution of another of them. The view may be taken, for example, that if one of the partnerships may be dissolved by a unilateral declaration of intent made by one of the partners whereas the law governing the other partnership requires a court decision, this other partnership will continue with its own specific effects.

Like Articles 2, 3, 4 and 6, this Article must be read in conjunction with Article 14 § 1, which assimilates a registration occurring abroad before a State's consular authorities to a registration occurring in that State.

Paragraph 2

The requested State may refuse to recognise a dissolution or annulment only where this is manifestly incompatible with its public policy, for example in the event of a clear breach of the rights of the defence. The requested State must verify, according to its own law, whether this dissolution complies with its public policy. It may, where applicable, request the production of the certificate provided for by Article 9 § 2, indicating the reason for the partnership's dissolution, or any other document. The solution adopted, whereby infringement of public policy is the only permitted ground for non-recognition of a partnership's dissolution, is in line with that adopted in the aforementioned Convention on the recognition of surnames (Articles 5 § 2 and 7). A dissolution or annulment that is recognised in the State where the partnership was formed deprives the partnership of any entitlement to recognition, regardless of the assessment that may be made by the State of recognition as to the conditions of the dissolution or annulment.

Article 9

The Convention provides that various certificates must be issued to the partners or former partners so that they can prove the existence of their partnership or its dissolution or annulment. A certificate is not the only means of proving the facts as these may also be proven by any other means.

The obligation to issue these certificates can only apply to the Contracting States. Where a partnership has been registered, dissolved or annulled in a non-Contracting State, proof of its registration, dissolution or annulment, or of recognition by the State of registration of its dissolution or annulment, may and must be provided by any other means.

Each Contracting State shall be responsible for designating the authority empowered to issue these certificates (Art. 16 § 2(a)).

Paragraph 1 provides for the issue by the State of registration of a partnership of a certificate indicating its registration. Paragraphs 2 and 3 concern the dissolution or annulment of a partnership. Paragraph 2 provides that the State in which the dissolution or annulment has occurred shall issue each former partner with a certificate indicating this dissolution or annulment. Where this State is not the one in which the partnership was registered, this certificate shall not mean that the dissolution or annulment must be recognised by the other Contracting States as it does not establish that the dissolution or annulment is recognised by the State of registration (cf. Art. 8 § 1). However, it does at least provide each former partner with a convenient means of proving the dissolution or annulment, which the requested State will have the option of recognising under its national law. Paragraph 3 provides that the State of registration of the partnership "may" issue a certificate attesting that it recognises the dissolution or annulment of said partnership. And this certificate may be issued even where the dissolution or annulment has occurred in a non-Contracting State. The word "may" is used because the Convention does not oblige the State of registration of the partnership to recognise the dissolution or annulment and it is only after verification that this State will be in a position to issue the certificate. Production of this certificate in another Contracting State obliges that State to recognise the dissolution or annulment, subject to Article 8 § 2.

The rules on drawing up these certificates are laid down in Article 13 and model certificates appear in appendices to the Convention.

Like Articles 2, 3, 4, 6 and 8, this Article must be read in conjunction with Article 14 § 1, which assimilates a registration occurring abroad before a State's consular authorities to a registration occurring in that State.

Article 10

This Article provides for information on partnerships to be exchanged. The exchange of information concerns registration of the partnership, its dissolution or annulment and finally recognition of this dissolution or annulment by the State of registration. The authorities sending and receiving this information shall be designated by each Contracting State at the time of signature, ratification, acceptance or approval of or accession to the Convention pursuant to Article 16 § 2(b). Thus it may be hoped that information will not be lost. The various certificates provided for by Article 9 constitute the vehicle for transmitting this information. The Contracting State issuing one of these certificates shall send this to the authorities, designated as stated previously, of the other Contracting States. The States whose authorities must be informed are those of which one of the partners is a national or in which one or other partner is habitually resident and also, for information regarding a dissolution or annulment, the State in which the partnership was registered.

Article 11

Article 11 envisages the possibility of a partnership being entered in the registers of a State other than the one in which it was registered. The State in which such an entry is envisaged will clearly be a Contracting State as it is not for the Convention to regulate what may happen in a non-Contracting State. However, the State in which the partnership was registered may be a non-Contracting State (see above on Art. 2).

The Article does not specify which registers are involved. It refers to the "relevant official" registers which means that it is for the law of the State concerned to specify which register(s) is(are) involved. This may be a civil-status register, a population register or any other official register.

The Article does not require such an entry to be made. It will be made only if the law of the State of recognition so provides. Even if that State possesses registers in which registered partnerships are included, it is under no obligation to enter in these registers partnerships registered abroad. Likewise, before making any entry, that State is free to request any documentary evidence which it considers necessary to verify that there are no grounds for non-recognition of the partnership. It is for the law of that State to determine whether the entry shall be made solely at the partners' request or whether it may be made *ex officio*. The exchange of information provided for by Article 10 may serve to alert the authorities of a State that an entry should be made *ex officio.*

If the law provides for an entry, it shall be made "without the need for any special procedure"his wording, borrowed from Community Regulations No. 44/2001 (Brussels I) and No. 2201/2003 (Brussels II bis), means that no application for authorisation to make the entry (exequatur) is required. This does not prejudge the issue of whether the entry shall be made on request or *ex officio.*

Article 12

This Article is the exact counterpart of the previous Article in relation to the entry of a partnership's dissolution or annulment in the registers of a State other than the one in which this has occurred.

The Article envisages only the entry of a dissolution or annulment that has occurred or is recognised in the State of registration of the partnership. The Convention certainly does not prohibit recognition of a dissolution or annulment that is not recognised in the State of registration (see above on Art. 8 § 1) but this does fall outside its scope.

Like Article 11, Article 12 indicates that it is for the law of the State in which the request for an entry is made to determine which documents must be furnished beforehand. If the State of registration of the partnership is a Contracting State, the certificate provided for by Article 9 § 3 will provide proof that the dissolution or annulment is recognised in the State where the partnership originated. However, the State in which the request for an entry is made may still request other documents – for example, in the case of dissolution by a court, the production of the judgment and, where applicable, its translation – to verify that there is no incompatibility with public policy as provided for by Article 8 § 2.

Article 13

Article 13 concerns the certificates provided for by Article 9 which confirm, respectively, registration of a partnership (Form A), dissolution or annulment of a partnership (Form B) and recognition of the partnership's dissolution or annulment (Form C).

Paragraph 1 of Article 13 refers to Appendices 1 to 3 which respectively contain the model certificates, the code numbers of the standard entries appearing in these certificates and the rules which apply to these certificates. Provision is made for a simplified procedure for revising these Appendices so that a purely technical operation having no effect on the substance of the Convention is not rendered pointlessly complex. It goes without saying that if the revision were to modify the coding of an entry, it should take account of the code numbers used in the other Conventions of the International Commission on Civil Status.

As regards Appendix 1 in particular, it will be noted that, in accordance with the policy followed since the adoption of Convention No. 25 on the coding of entries appearing in civil-status documents, certificates are not drawn up on multilingual forms but contain coded entries. Save for the reference to the Convention, which must appear in the certificate in the language of all the States which are members of the International Commission on Civil Status at the time of signature of the Convention, the other entries and the summary which the certificate must contain have to be written only in the language of the authority drawing up the certificate and in French, the official language of the International Commission on Civil Status. However, even though all the translations no longer appear in the form itself, the International Commission on Civil Status considers it appropriate to have available the totality of the translations that may be found in certificates sent from one State to another.

Under paragraph 2 of this same Article, the translation into the language of each Contracting State of the terms included in the list in Appendix 2 and of the terms which must, in conformity with Appendix 3, appear in the certificates is to be deposited with and approved by the Bureau of the International Commission on Civil Status; the same applies to any modification of that translation.

Paragraph 3 provides that, if an interested party so requests, the authority of a Contracting State issuing a certificate shall take the necessary steps to ensure that the contents of the document can be understood by the authority to which it is presented. The issuing authority shall append to the certificate a list of the code numbers appearing in the certificate and their translation into the language or one of the official languages of the Contracting State or States where the certificate is to be used. It may also decode the certificate by translating it into one of these languages. The issuing authority responsible for complying with the obligation resulting from this paragraph shall be designated by each State in accordance with Article 16 § 2(a) at the time of signature, ratification, acceptance or approval of or accession to the Convention.

Paragraph 4 imposes the same obligation on the authority of a Contracting State where a certificate is being used: at the request of any interested party, it shall take the necessary steps to ensure that the certificate can be understood in its language or one of its official languages by translating the code numbers or by decoding the certificate. The authority or authorities responsible for translating the code numbers or decoding the certificate shall be designated by each State in accordance with Article 16 § 2(c) at the time of signature, ratification, acceptance or approval of or accession to the Convention.

Appendix 3 to the Convention exempts certificates from translation, legalisation or any other equivalent formality. It also provides that, if serious doubts exist as to the authenticity of the signature, the identity of the seal or stamp or the capacity of the signatory, the authority to which the certificate has been presented may have this point verified by the issuing authority, in accordance with the procedure laid down by Convention No. 17 on the exemption from legalisation of certain records and documents, signed at Athens on 15 September 1977.

Article 14

The tenor of this Article has already been indicated in connection with Articles 2, 3, 4, 5, 6, 8 and 9. Under paragraph 3, however, this fictional location of the consular authority shall be conditional on it being empowered under the law of the sending State and on there being nothing contrary thereto in the laws and regulations of the receiving State (Vienna Convention on Consular Relations of 24 April 1963, Article 5(f)).

Article 15

Article 15 is a transitional provision relating to the treatment in a Contracting State of partnerships formed and dissolutions or annulments having occurred before the date of entry into force of the Convention for that State.

Paragraph 1 provides that the validity and civil-status effects of a partnership registered before that date shall be recognised in said Contracting State if the conditions for recognition laid down by the Convention are satisfied. However, it may be that, before the date of entry into force of the Convention for that State, one of the partners married a third person, for example. That marriage was validly concluded under the law of that State because, on the date of its celebration, that State did not recognise the partnership or, as a result, the effect of impediment to marriage that it produced. The validity of that marriage should not be called into question retroactively on account of the entry into force of the Convention. This is why the second sentence of paragraph 1 specifies that recognition of the partnership shall not be afforded if this would call into question the validity of acts having occurred before the entry into force of the Convention for that State. In such a case, only the marriage will be recognised as valid in that State and neither the partnership nor its effects will be recognised there.

Paragraph 2 adopts a parallel rule for the dissolution or annulment of a partnership having occurred before the date of entry into force of the Convention for a State. That dissolution or annulment will be recognised in that State, to the extent that it affects the effects which the partnership is to be recognised as having under Articles 2 to 7, if it has occurred or is recognised in the State where the partnership was registered and if that recognition is not manifestly incompatible with the public policy of the State in which it is sought.

Article 15 does not mention the effect of the reservations which may be made pursuant to Article 20 § 1 on partnerships registered before the entry into force of the Convention for the State having made those reservations. It must be considered that a reservation made in respect of Article 2 or Article 5 will necessarily impact on Article 15. The State having reserved the right not to apply Article 2 or all or part of Article 5 will not recognise the validity or the surname effects of partnerships formed after the entry into force of the Convention in its respect and quite clearly will also not recognise this validity or these effects for partnerships formed previously.

Articles 16 to 23

Except for Article 16 § 1 (see above on Article 1), these Articles contain the usual final clauses. Article 18 provides for the possibility of any State acceding to the Convention. Article 19 provides for the entry into force of the Convention as soon as two member States of the ICCS have ratified, accepted or approved it, with third States not being able to accede until after this date. Article 20 lists by way of limitation the permitted reservations, explained above under the Articles concerned.