



REGERINGSKANSLIET

Memorandum

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**Ministry of Justice
Sweden**

The Permanent Bureau at the Hague
conference on private international law

*Division for Procedural Law and Court
Issues
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**The Hague convention of 18 March 1970 on taking of
evidence - questionnaire**

Please find enclosed our comments and answers to the questionnaire in Preliminary Document No 4 of August 2003.

1. We have no relevant precedents regarding the 1970 Convention.
2. Yes, we have statistics relating to the number of requests to obtain evidence addressed to our state. On average we receive 50 requests per year. So far, since the 1st of January 2003 and up to this date we have received 34 requests.
3. The Swedish Central Authority has not encountered any practical difficulties connected with the application of the Convention. We have no clear picture about how the Convention works for our courts as requesting authorities. But our image is that the experience is that it sometimes takes too long to get requests executed.
4. We have no court rulings determining whether the Convention is mandatory and/ or exclusive.
5. We have a reservation under Article 23. Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in common law countries will not be executed. This reservation has been applied towards some Common-law states, however, this has been of rare occurrence.
6. We have a modified reservation under Article 23, see our letter dated 10 July 1980. But as stated above the reservation is not very frequently used.
7. We share the opinion of the Permanent Bureau that the arbitration panel cannot be treated as a judicial authority for the purposes of the Convention. We have not had occasion to deal with requests to obtain evidence in the course of arbitration proceedings.

8. According to the Swedish Central Authority the average time elapsing between a receipt of a request to obtain evidence and its performance is 2-3 months. We do not have statistics about the average time when our courts send requests to other states.

9. Yes, we allow members of the judicial personnel of the requesting authority of another Contracting State to be present at the execution of a Letter of Request without prior authorization.

10. Our Central Authority does not object to receive requests by electronic means.

11. We believe that the usage of new information technologies will be more frequently used in the future. We are starting to see examples of such requests. Sometimes we see some practical problems since not all courts have equipment for videoconference. We believe that telephone conference is a very useful method to obtain evidence abroad in certain cases.

12. The use of modern communication technologies should be promoted. Perhaps a recommendation could have just as much impact as a completely new instrument. But this question could be looked into at more depth where also art 10.4 and 17.4 of Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters could serve as a basis for the discussions.