

**THE ANSWER OF CHINA TO THE QUESTIONNAIRE
ON OPERATION OF THE HAGUE CONVENTION OF 15 NOVEMBER 1965 ON
THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN
CIVIL OR COMMERCIAL MATTERS**

I. QUESTION ADDRESSED TO NON-PARTY STATES

N/A.

II. ADMINISTRATIVE INFORMATION AND UPDATES

3. Central Authority

3.1 According to Article 2 and Article 9 of the Convention, the Ministry of Justice is designated as the Central Authority and the authority competent to receive documents transmitted by foreign States through consular channels.

Address of the Central Authority:

Ministry of Justice
Department of Judicial Assistance and Cooperation
Division of Judicial Assistance
10, Chaoyangmen Nandajie
Chaoyang District
Beijing 100020
People's Republic of China

Tel: 0086 10 65206239

Fax: 0086 10 85631991

3.2 Chinese, English and French

3.3 Please refer to the statistics attached to this answer

4. Case-law and reference works

4.1 In 2002, the Supreme People's Court made a judicial interpretation, which touched the applicability of the Convention. It states that, according to Article 247 of Civil Procedure Law of the PRC, A people's court may serve litigation documents on a party who has no domicile within the territory of the PRC in the way specified in the international treaties concluded or acceded to by both the PRC and

the country where the person on whom service is to be made resides; but when the person on whom the service is to be made has established representative office in the PRC, the Hague Convention will not apply since the situation is not conformable to “where there is occasion to transmit a judicial or extrajudicial document for service abroad” prescribe by the Convention. A people’s court may serve the documents on the representative office established in the PRC by the person on whom the service is to be made in accordance with Article 247(5) of Civil Procedure Law of the PRC in spite of the Hague Convention .

4.2 We have noticed some articles in Chinese.

5. Handbook

5.1 It is necessary to publish Part? and Part ? of the handbook on the website of HCCH in order to provide the practitioners useful information about the requesting country concerning the competent authorities/requirement/ language and costs.

5.2 We are satisfied with the provisional version. No further suggestions.

5.3 None at the moment.

5.4 In our opinion, to update the information on the website regularly and continuously is more desirable.

5.5 N/A.

6. Scope of the Convention (Article 1)

6.1—6.5 No

7. Forwarding authority

7.1 The competent authorities are the Ministry of Justice and Higher People’s Courts

7.2 N/A.

8. Methods for service used by the Central Authority

8.1

(1) Article 5, paragraph 1, sub-paragraph (a)

The Central Authority of China refers the document to the competent court. The court will serve the document directly to the addressee or the person who is entitled to receive the document. Where direct service is impracticable in some cases, other methods may be employed in accordance with the Civil Procedure Law.

(2) Article 5, paragraph 2

There is no such kind method in the Chinese domestic law, and the addressee may refuse to accept it in any case.

(3) Article 5, paragraph 1, sub-paragraph (b)

In such cases, the Central Authority of China forwards the documents to the competent court. The competent court may execute the service to the extent not contrary to Chinese domestic law.

8.2 Please refer to the answer of No.9

8.3 N/A

8.4 Charge is incurred on a reciprocal basis and at the equivalent amount.

9. Translation requirement

9.1 The Civil Procedure Law of the PRC prescribes that "the letter of request for judicial assistance and its annexes sent by a foreign court to a people's court shall be appended with a Chinese translation or a text in any other language or languages specified in the relevant international treaties." According to the above-mentioned regulation, service requested within the meaning of Article 5(1) of the Convention requires that all documents and evidences to be served must be written in Chinese or that a translation in Chinese be attached thereto, unless there are contrary prescriptions in the mutual treaties between China and other contracting states of the Hague Convention.

9.2-9.4 To adopt a Recommendation seems inappropriate. We think that this problem could be solved in the cases that if it has reason to believe that the addressee can understand the language of the requesting State, pursuant to Article 5 (2).

10. Timing

10.1 The requests are usually executed within 3 to 4 months based on our statistics, no matter the request is incoming or outgoing.

10.2 There are great differences between different countries.

10.3 N/A.

11. Alternative transmission channels

11.1

According to Article 8(2), the means of service stipulated in the first paragraph of that Article may be used within the territory of the People's Republic of China only when the document is to be served upon a national of the States in which the documents originate.

According to Article 9, the Ministry of Justice of the People's Republic of China is designated as the authority competent to receive documents transmitted by foreign States through consular channels and then forwards these documents to the competent court.

11.2-4 China has declared to oppose the service of documents in the territory of the People's Republic of China by the methods provided by Article 10 of the Convention. Therefore, no opinion about these questions.

12. Judicial and extrajudicial documents

12.1 there is no such classification in the Chinese domestic law.

12.2 N/A

13. Date of service

13.1 N/A

13.2 N/A

14. Exequatur

14.1 There is no such precedent in China so far. Theoretically speaking, even the service has been executed in the way as stated in the Convention, the contracting State can still deny to enforce the foreign judgment if this judgment runs against the public policy.

15. Exclusion of application of the Convention between the parties

15.1 There are no such rulings in China.

16. Fax and electronic mail

16.1 a) no .

b) N/A.

16.2 No

16.3 N/A.

16.4 There are no such rulings in China.

16.5 N/A

16.6 There are no such rulings in China, and no such contracts in practice.

17. Model forms

17.1 The existing model forms are brief and useful. It is not necessary to revise them.

17.2 It is not necessary.

17.3-4 It is not necessary. Since in most of the contracting States the requests are made by a judge or an inquisitor or the Central Authority, they only need to inform the HCCH of the list of the officers entitled to submit the request, then the HCCH publishes the list on its website and the problem raised could be solved. While in some other States if not all the above-mentioned officers are entitled to make request according to their domestic laws, we think the best way to resolve this problem is to allow the contracting States to require the applicant to attach a certificate of authorization when they submit a request.

17.5 Yes.

18. Reservations and reciprocity

N/A

19. Bilateral and multilateral agreements

The contracting states with which China has concluded bilateral treaties which contains provisions in respect of service of documents are:

BELARUS, BULGARIA, CYPRUS, EGYPT, FRANCE, GREECE, LITHUANIA, ITALY, POLAND, RUSSIAN FEDERATION, SPAIN, TURKEY, UKRAINE.

The shell on the services on requests according to the Convention

Country \ Year	From foreign / to foreign						
	1989	1990	1991	1992	1993	1994	1995
France	1/3	10/2	42/2	58/5	118/10	89/13	92/12
America				26/34	59/77	59/82	68/88
Japan				2/41	/106	19/126	21/141
Italy				8/1	15/13	15/4	50/11
Netherlands					16/5	32/3	40/1
Belgium				1/2	/2	/1	5/4
Germany				2/2	10/9	16/9	7/6
U.K.				3/	11/5	14/6	15/2
Switzerland							7/1
Spain					/3	3/3	/7
Luxemburg						/1	
Denmark						/1	2/
Norway					1/1		/1
Sweden				1/		3/	2/1
Finland				1/			1/
Bulgaria							
Poland						1/	3/
Russia					1/	3/3	/3
Belarus							1/
Czech				/2	1/		/4
Slovakia							
Turkey		1/	1/			/1	
Canada				/6	/14	1/7	1/9
Ukraine							/1
Egypt							
Greece				1/		1/3	1/2
Portugal					/2	/3	
others						/3	/2
In total	1/3	11/2	43/2	107/93	231/249	245/269	316/296
	4	13	45	200	480	514	612

Country \ Year	From foreign / submit to foreign Central Authority/submit to Chinese abroad by consular channel						
	1996	1997	1998	1999	2000	2001	2002
France	126/2/5	187/2/3	213/10/6	239/16/17	222/6/10	223/3/14	226/6/8
America	78/46/44	98/53/46	121/51/7	83/52/88	113/63/84	95/89/36	122/79/19
Japan	35/67/49	60/79/42	42/104/41	31/153/58	30/277/47	36/165/53	30/221/7
Italy	35/5/5	46/5/9	26/1/6	27/6/19	19/4/24	35/6/36	23/4/26
Netherlands	38/ /2	57/2/4	33/3/	29/1/3	43/3/2	29/2/4	18/4/1
Belgium	21/1/1	39/ /	25/7/1	19/ /2	21/1/1	40/2/	21/1/0
Germany	28/4/9	53/8/5	56/5/8	63/16/10	59/7/9	47/14/7	54/10/15
U.K.	8/2/2	16/3/1	20/6/1	10/4/2	10/3/3	23/14/5	21/18/7
Switzerland	9/1/	17/1/	25/1/	15/4/	8/1/0	6/2/1	41/3/1
Spain	1/ /9	1/ /11	/ /3	1/1/8	2/0/9	/4/10	0/2/11
Luxemburg	/1/1				2/0/0	2/ /1	1/0/1
Denmark		1/ /	/4 /	/3/	0/0/0	/1/	2/0/1
Norway	1/4/	5/1/	2/2/1		0/1/0		0/0/2
Sweden	4/2/1		4/ /	2/2/2	3/0/0	3/ /	3/0/1
Finland	/ /1	2/ /	14/1/	9/ /	2/1/0	6/ /2	1/0/0
Bulgaria			1/ /		0/0/0		
Poland	2/ /	1/1/	2/1/	/5/	1/0/0	8/ /	2/0/1
Russia	/5/		/7/	1/3/1	5/2/0	/2/1	3/2/2
Belarus				1/ /	0/0/0		0/1/0
Czech	/ /2	/ /1	/1/2		0 /1/0	/1/	0/1/4
Slovakia			/ /3	/ /1	1/0/0		
Turkey	3/ /	5/1/	3/1/	3/ /	1/0/0	9/ /	5/1/0
Canada	4/5/12	4/2/8	6/3/9	2/14/17	3/7/7	5/9/18	0/8/14
Ukraine	2/ /	/2/	/1/	/ /1	0/0/1	1/ /1	
Egypt	2/ /	2/ /	2/ /	7/ /	5/0/0	5/ /	16/0/0
Greece	/4/	3/3/	1/3/	2/7/1	1/2/2	4/5/	5/5/0
Portugal			/ /2	/ /3	0/0/3	/ /1	0/0/2
Korea					22/0/0	107/20/	129/65/2
others		9/ /	1/ /		7/6/1	5/3/	2/10/2
In total	400/149/158	538/177/134	597/213/162	548/305/234	580/385/203	675/339/226	710/449/127
	707	849	982	1122	1168	1240	1324