



**Asia-Pacific
Economic Cooperation**

2014/SOM3/EC/036

Agenda Item: 9

Report on the Workshop on Ease of Doing Business Through Hague Conventions

Purpose: Consideration
Submitted by: Hong Kong, China



**Second Economic Committee Plenary Meeting
Beijing, China
17-18 August 2014**



Organized by the Department of Justice of Hong Kong, China
in collaboration with the Asia Pacific Regional Office
of the Hague Conference on Private International Law (HCCH)

**REPORT ON THE ECONOMIC COMMITTEE (EC) WORKSHOP ON
EASE OF DOING BUSINESS THROUGH HAGUE CONVENTIONS
Beijing, China
12 August 2014**

The Department of Justice of Hong Kong, China, in collaboration with the Asia Pacific Regional Office of the Hague Conference on Private International Law ("HCCH"), organised under the auspices of the APEC Economic Committee a Workshop on Ease of Doing Business Through Hague Conventions in Beijing, China on 12 August 2014.

This Workshop gathered over 40 delegates and participants from the APEC member economies and international organizations. It was aimed to (a) enhance understanding of the relevant Hague Conventions on how they may greatly facilitate cross border transactions and resolution of business disputes among APEC member economies; (b) build the specific capacity of APEC member economies to consider accessions and to improve their current regimes by the use modern technology; and (c) contribute to the development of a network of the relevant APEC officers, with a view to facilitating long-term information and experience sharing.

THE WORKSHOP:

Having regard to the importance of cross-border investment, movement of goods and services as critical facilitators of economic growth and job creation in the Asia-Pacific region;

Considering that effective cross-border judicial and administrative cooperation in civil and commercial matters will contribute to enhancing ease of doing business by efficient resolution any business dispute;

Recognising and reaffirming the value of the mechanisms established under the *Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents* ("Apostille Convention"), the *Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* ("Evidence Convention") and the *Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* ("Service Convention") as long-established, effective global means to facilitate cross-border investment, movement of goods and services by simplifying the necessary authentication process and by providing efficient means for cross-border cooperation in procedural matters, thereby simplifying and expediting judicial procedures and allowing for effective litigation management;

Noting that a number of member economies have become, or are considering becoming, party to these Hague Conventions;

Noting the benefits of the use of modern information technology in implementing these Hague Conventions;

Welcoming the adoption of the *Hague Convention of 30 June 2005 on Choice of Court Agreements* ("Choice of Court Convention") and recognising its potential to provide legal certainty and predictability in relation to the use of choice of court clauses in business to business contracts;

CONCLUDED AND RECOMMENDED:

JOINING THE APOSTILLE CONVENTION AND IMPLEMENTING E-APP

1. The delegates and participants reiterate that APEC-wide adoption of the Apostille Convention will have a significant impact on the ease of doing business (EoDB), reinforce institutional and people-to-people connectivity, and contribute to APEC's wider objective of trade and investment liberalization.
2. The delegates and participants encourage their competent authorities to continue following up with the relevant recommendation of the APEC Joint Ministerial Statement on 5 October 2013 for wider participation in the Apostille Convention.
3. The delegates and participants welcome the progress made by some APEC member economies in preparing accession to the Apostille Convention, including possible implementation of the e-APP when joining the Convention. The delegates and participants also recognize the value of the e-APP in enhancing secure and efficient operation of the Apostille Convention and hence encourage the wide use of e-Apostilles and e-Registers of Apostilles.

JOINING THE SERVICE AND EVIDENCE CONVENTIONS AND USING INFORMATION TECHNOLOGY

4. The delegates and participants acknowledge that the Service Convention has greatly facilitated international transmission of judicial and extra-judicial documents (including demands for payment, protests with respect to bills of exchange and promissory notes) and that the Evidence Convention has established effective methods of co-operation for the taking of evidence abroad in civil or commercial matters by means of letters of request, and by diplomatic or consular agents and commissioners.
5. The delegates and participants appreciate a growing need to transmit judicial and extra-judicial documents and to take evidence abroad given market globalization and rising cross-border disputes in civil and commercial matters. The delegates and participants also consider that facilitating international transmission of documents and taking of evidence abroad will enhance ease of doing business by reducing litigation time and cost, contributing to more efficient resolution of disputes. Therefore, the delegates and participants encourage APEC member economies to enhance cooperation in transmission of documents and taking of evidence abroad through the Service Convention and the Evidence Convention, and to accede to the Conventions, as applicable.
6. The delegates and participants note developments in the use of information technology in implementing the Service Convention and the Evidence Convention. The delegates and participants acknowledge that transmission and receipt of requests by electronic means will facilitate expeditious execution under both Conventions and encourage their competent authorities to improve the current regimes by modern information technology.

CONSIDERING THE CHOICE OF COURT CONVENTION AND CONTINUING THE JUDGMENTS PROJECT

7. The delegates and participants consider that the Choice of Court Convention is a useful global instrument which will benefit the international business community and foster

international trade and investment by providing litigants with a simple, predictable and effective legal framework.

8. The delegates and participants note that some APEC member economies are actively considering the Choice of Court Convention and encourage the competent authorities of all other member economies to do the same.
9. The delegates and participants acknowledge the benefits of harmonisation of the rules on recognition and enforcement of judgments and jurisdictional rules for parties engaged in cross-border trade and investment, and welcome the continuation of the Hague Judgments Project¹.

ENHANCING COLLABORATION WITH THE HCCH

10. The delegates and participants reiterate the proven value of technical assistance offered by the Permanent Bureau of the HCCH including through its Asia Pacific Regional Office to some APEC member economies and warmly welcome activities similar to this Workshop in the future as well as further opportunity for enhanced collaboration between the HCCH and APEC.
11. APEC member economies are encouraged to actively participate to the extent practicable in the work of the HCCH in this region, in particular as regards the HCCH Asia Pacific Week (6-11 October)² including the 9th International Forum on the e-APP to be held in Hong Kong, China, from 9-10 October 2014, the Asia-Pacific Regional Conferences, and any other activity organized by the Asia Pacific Regional Office.

¹ See http://www.hcch.net/index_en.php?act=text.display&tid=149

² See <http://hcchasiapacificweek.org>