

**Response of the Hong Kong
Special Administrative Region of the
People's Republic of China
to the Questionnaire
on the Hague Convention
Abolishing the Requirement of
Legalisation for Foreign Public Documents
(the "Convention")**

Unless otherwise stated, the information given below relates only to the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") to which the Convention has been applicable since 1965.

QUESTION 1

In practice, what are the kinds of public documents (e.g., commercial documents, birth certificates) for which the competent authority(ies) in your State is (are) most commonly called upon to issue *apostilles*?

The kinds of public documents we are most commonly called upon to issue *apostilles* are as follows –

- 1) Documents bearing the true signature of an official party such as a Hong Kong SAR Government recognized officer –
 - a) Birth and Death Certificate
 - b) Marriage Certificate
 - c) Certificate of Absence of Marriage Record
 - d) Declaration
 - e) Business Registration Certificate
 - f) Certificate of Incorporation
 - g) Certificate of Registered Particulars

- 2) Documents signed by a notary public in Hong Kong –
 - a) Power of Attorney
 - b) Certified true copy

QUESTION 2

Do you have statistics at your disposal with respect to the number of *apostilles* issued by your competent authorities (by type of document, if possible)?

The number of *apostilles* issued by us–

- 1) Year 2002 – 6 077 *apostilles*
- 2) Year 2003 (January – August) – 4 367 *apostilles*

There is no record by type of document.

QUESTION 3

Pursuant to the application by the European Community for membership of the Hague Conference, it will have to be determined to what extent the Hague Conventions, and in particular the "Apostille" Convention, should or could be extended to regional economic-integration organizations. Do you consider that it would be necessary or appropriate to adopt a protocol favouring the adoption of a clause similar to that of Article 18 of *The Hague Convention on the law applicable to certain rights in respect of securities held with an intermediary?*

Such a clause will enable documents issued by the EC to be covered by the Convention and further facilitate the circulation of EC documents outside the EC. Therefore we do not have any objection to adopting a protocol introducing a clause similar to Article 18 of the Indirectly Held Securities Convention.

QUESTION 4

Would you be in favour of the adoption of a protocol designed to enable a State with several units to extend the application of the Convention to one or several of its territorial units?

Currently, the Convention applies to Hong Kong and Macao within China, but not the rest of China, even though there are no express provisions in the Convention enabling a State with several units to extend the application of the Convention to one or more of its territorial unit. The adoption of a protocol to this effect will serve to confirm the current practice and provide a firm legal basis for continuing that practice. For the above reasons, we are in favour of adopting such a protocol.

QUESTION 5

Can you specify the price charged by the competent authorities in your country for issuance of the *apostille*?

HK\$125 (around US\$16) per *apostille*

QUESTION 6

In practice, have you encountered difficulties connected with the formal requirements provided for under the Convention?

No.

QUESTION 7

Practical information relating to the methods used to affix the *apostille* would be very useful. In particular, how do you proceed when the public document to receive the *apostille* has several pages?

- (a) A document of several pages is fixed together with a staple and a paper corner. We will provide *apostille* to the page/pages with true signatures but not to other pages. If there is more than one signature on the document, it will be up to the applicants to decide whether they want the *apostille* be placed on each and every page with signature or just on a specific page.
- (b) The *apostille* form is engraved in a chop which is affixed on the document or page requiring authentication. If the document or the page does not have any space, an *apostille* will be created by affixing the chop with the *apostille* form to a blank sheet to be attached to the document or page requiring authentication.

QUESTION 8

Is consultation of the register or card index for verification requested frequently?

We have received such requests very infrequently, just once or twice over the last four years.

QUESTION 9

Do you use signatures by mechanical means, stamp and/or electronics, to

fill in *apostilles*? If so, have security measures been taken to avoid any fraud? If so, which?

No, we do not use mechanical or electronic means to fill in the *apostilles*. The method of creating an *apostille* is described in answer 7(b) above.

QUESTION 10

Do you use an electronic medium to keep the "register or card index" provided for under Article 7 of the Convention? If so, do you also keep a paper copy of the entries and if not, do you contemplate doing so? What are your reasons?

No. We still use the paper form register.

QUESTION 11

Do you issue *apostilles* for electronic documents? If so, can you provide us with details of the manner of that issuance and if not, do you think this possibility can be contemplated?

No. In principle, there is no objection to issuing *apostilles* for electronic documents but there are many legislative and technological implications. We are in the stage of exploring the use of electronic means for filing documents by applicants and issuing documents by the Courts. But the exercise does not cover documents from abroad or to be used abroad.