

Your ref : L.c ON No 34(03)
Our ref : JPN (R) 1467/C Jld 6
Date : 10 September 2003

URGENT/By Fax

Secretary General
The Hague Conference on Private International Law
Permanent Bureau
6, Scheningseweg
2517 KT
The Hague
THE NETHERLANDS

Dear Sir,

**SPECIAL COMMISSION ON THE PRACTICAL OPERATION OF
THE HAGUE CONVENTIONS OF 15 NOVEMBER 1965 ON THE
SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL
DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS, OF 18
MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD IN CIVIL
OR COMMERCIAL MATTERS AS WELL AS OF 5 OCTOBER 1961
ON ABOLISHING THE REQUIREMENT OF LEGALISATION FOR
FOREIGN PUBLIC DOCUMENTS**

Your letter dated 31st July 2003 refers wherein Member States have been invited to answer a set of Questionnaire for the purpose of the updating of the practical Handbook and the determining of strategic issues to be addressed at the upcoming Special Commission meeting.

2. We note that the National Organs are invited to submit any partial responses before 15 September 2003 but may at any time after provide further responses.

3. In responding to the questionnaire, we would like to bring to the attention of the Secretariat that at the time of writing, Malaysia is not a Contracting State of the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Hence, at this point of time, our preliminary response to the questionnaire is as follows:

Response to Query 1:

Malaysia became a party to the Hague Conference on Private International Law (hereinafter referred to as "HCPIIL") on 2nd October 2002. The study of the 1965 Convention for the purpose of accession ranks high in priority by the Attorney General's Chambers in Malaysia. Nevertheless, further input from various governmental agencies as well as from the practitioners is required before accession. Steps are currently being undertaken to do the necessary for the purpose of accession, which requires policy consideration and approval from the Government.

Response to Query 2:

Results from the study by the Attorney General's Chambers of Malaysia from the legal perspective thus far have been positive.

Malaysia may be able to accede to this Convention in view of the existing infrastructure in place in the local legislations, namely within the Rules of the High Court 1980 which governs the civil court procedures. Nevertheless, amendments may be necessary to streamline the provisions in our legislation to accord with the provisions of the 1965 Convention.

Response to Queries 5.1 and 5.4

We appreciate the importance of up-to-date information, especially in view of the benefits such information would bring to Contracting States as well as future Contracting States of these conventions. However, it is pertinent to note that any such effort should not result in financial burden on Member States.

Further thoughts should be put in before a final decision is made. We are of the view that this issue merits discussion during the upcoming Special Commission meeting.

Alternative means of raising resources that may be considered include -

- (i) leaving such work to be undertaken by private academicians or practitioners;
- (ii) selling the practical handbook to private academicians or practitioners and using the profits for future research funding.

Response to Queries 5.2 and 5.3

The provisional Handbook is acceptable as the basis for discussions during the Special Commission meeting. We would provide any further feedback, if any.

Response to Query 6.2

This Chambers' preliminary study observes that "civil and commercial matters" relates to matters which are within the jurisdiction of the civil courts of Malaysia.

Thank you.

Yours faithfully,

Signed

(AZAILIZA MOHD AHAD)
Deputy Head of International Affairs Division
Attorney-General's Chambers
Malaysia.