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The Office of International Judicial Assistance (“OIJA”), acting through its contractor ABC Legal Services (“ABC Legal”), plays a minor role with regard to requests for service of documents from the United States to be served upon persons or entities in foreign countries limited to ministerial functions under the Additional Protocol to the Inter-American Convention on Letters Rogatory (“Inter-American Convention”). OIJA otherwise plays no role in the execution of service of documents on persons in foreign countries in connection with private litigation proceeding in U.S. courts. Below we summarize some permissible methods for service abroad, but it is the sole responsibility of parties within the United States to make all arrangements for the service of documents outside of the United States and confirm that the method of service complies with applicable law.

The guidance provided in this document is for informational purposes only and does not constitute legal advice.

I. SERVICE ABROAD PURSUANT TO THE HAGUE SERVICE CONVENTION

The Convention of 15 November 1965 on the Service Abroad of Judicial or Extrajudicial Documents in Civil or Commercial Matters (“Hague Service Convention” or “HSC”) provides for effective, expeditious, and inexpensive service of U.S. judicial documents in civil or commercial cases on individuals, companies, and, in some jurisdictions, foreign governments and their instrumentalities abroad through requests made to a designated office known as a “Central Authority.” The HSC cannot be used to serve documents related to criminal cases.

Under U.S. law, licensed attorneys are competent authorities pursuant to Article 3 of the HSC to prepare and submit requests for service of U.S. judicial documents to foreign Central Authorities. *See* OIJA Guidance on Attorneys as Competent Forwarding Authorities under the Hague Service Convention, available here: <https://www.justice.gov/civil/media/1414296/dl?inline>.

A person who wishes to request service of documents through a Central Authority using the HSC relating to a state or federal proceeding should take the following steps:

1. Determine whether the jurisdiction in which service is to be made is a party to the HSC. A list of all Contracting Parties to the Hague Service Convention can be found here: http://www.hcch.net/index_en.php?act=conventions.status&cid=17;
2. Read the HSC. The text is short and clear. It will provide answers to the questions which are most frequently asked concerning the procedures to be followed. The full text of the Hague Service Convention can be found here: http://www.hcch.net/index_en.php?act=conventions.text&cid=17; and
3. Obtain a copy of the HSC Model Form (“Model Form”) that **must** accompany a request and can be found here: <https://www.hcch.net/en/publications-and-studies/details4/?pid=6560&dtid=65>. Instructions for completing the Form can be

found here: <https://www.hcch.net/en/publications-and-studies/details4/?pid=27>.
Additional guidelines for completing the form can be found online here:
<https://assets.hcch.net/docs/1e4b0a96-9e87-4b10-99c8-8647c843b80e.pdf>.

A. Instructions for Completing the Model Form

The “Request” Page:

- ***Identity and address of the applicant:*** Enter the name and address of the applicant (“Forwarding Authority”) who will be transmitting the request to the Requested State’s Central Authority for execution. The persons and entities within the United States competent to act as Forwarding Authorities include any court official, any attorney licensed to practice under U.S. law, and any other authority empowered to effect service by the rules of the court. A *pro se* party or private individual is NOT a competent Forwarding Authority. In such cases, the clerk of court, a licensed attorney, or other appropriate authority that is empowered to serve the complaint domestically should prepare and submit the request for service. Be sure to state the position/title of the Forwarding Authority.
- ***Address of receiving authority:*** Enter the name and address of the Requested State’s Central Authority. The names and mailing addresses can be found here: <https://www.hcch.net/en/instruments/conventions/authorities1/?cid=17>.
- ***Identity and Address:*** Enter the full name and address (including phone number and email address, if available) of the person or entity to be served. If available, include the date of birth or any other identifying information.
- ***Check box to indicate the method of service which is sought.***
 - Check “a” if service is to be in accordance with the internal law of the Requested State.
 - Check “b” if a particular method service is requested so long as it is not otherwise incompatible with the internal law of the Requested State.
 - Check “c” if requesting that the Requested State’s Central Authority process a service request by delivery to an addressee who accepts it voluntarily.
- ***List of documents:*** In the space provided, list all of the documents which are attached to the Model Form and all of the documents that are to be served.
- ***Signature and/or stamp:*** The Forwarding Authority should sign and date the Model Form. You may include at the bottom of the Model Form a citation to the particular federal or state rule of civil procedure evidencing the Forwarding Authority’s competency to transmit the request for service.

The “Certificate” Page: LEAVE BLANK. This page will be completed by the Requested State’s Central Authority and returned to the Forwarding Authority.

The “Warning” Page:

- ***Identity and address of the addressee:*** Re-enter the full name and address (including phone number and email address, if available) of the person or entity to be served. If available, include the date of birth or any other identifying information.
- The second box is to provide contact information for legal aid or other services, if available. For most U.S. domestic litigation, this portion may be left blank.

The “Summary of The Document To Be Served” Page:

- ***Name and address of the requesting authority:*** Enter the name and address of the Forwarding Authority, which should match the information on the first page.
- ***Particulars of the parties:*** Enter the names and addresses of all parties to the proceedings.
- Select “Judicial Document,” unless serving an extrajudicial document (which is rarely, if ever used, under U.S. law).
 - ***Nature and purpose of the document:*** Enter a brief summary of the document(s) to be served. For example, “complaint and summons” or “default judgment.”
 - ***Nature and purpose of the proceedings:*** Enter a brief description of the subject matter of the underlying proceedings. For example, “breach of contract” or “divorce.”
 - ***Date and Place for entering appearance:*** If applicable, enter the time by which an appearance must be made and the location for entering the appearance or attending a hearing or other proceeding.
 - ***Court which has given judgment:*** Enter the full name of the court presiding over the proceedings.
 - ***Date of judgment:*** If applicable, enter the date of the judgment associated with the document being served.
 - ***Time limits stated in the document:*** If applicable, enter any time limits for action by the party to be served, as stated in the documents. This is often identical to the date and place for entering appearance.

B. Translation Requirements

In most jurisdictions, the Requested State's Central Authority requires that documents are accompanied by a translation into one of the official languages of that jurisdiction, as indicated on their Practical Information or E- Country Profile pages, available here: <https://www.hcch.net/en/instruments/conventions/authorities1/?cid=17> and <https://www.hcch.net/en/instruments/specialised-sections/service/service-e-country-profile>.

In addition, even if there is no explicit translation requirement, notice may not be considered effective where the person served cannot understand the documents. We strongly recommend that the documents to be served be accompanied by translations, unless it is known that the recipient is able to read and understand the English language. At the very least, the documents to be served should be accompanied by a translated summary of their contents so the recipient is placed on notice concerning the essential elements, such as the origin of the claim, nature of the documents, and the time limits for entering an appearance or making a reply.

C. Execution Pursuant to the Hague Service Convention

The completed Model Form and the documents to be served (and any necessary translations) should be sent, in duplicate, directly to the Requested State's Central Authority by mail or by electronic means (when available). No transmittal letter or other formality is necessary. **OIIA is not involved in the transmission of requests to foreign Central Authorities under the Hague Service Convention on behalf of private litigants.**

Unless otherwise specified by the Requested State's Central Authority, it is not necessary that payment accompany the request. Under Article 12 of the Convention, the services performed by the Central Authority are free. However, the Forwarding Authority may be billed for expenses incurred by the Central Authority or for costs incurred from the use of a particular method of service requested. The Central Authority will inform the Forwarding Authority of any charges and will specify the manner of payment. It is important that the Forwarding Authority pay such bills promptly. Check the Central Authority Practical Information or E-Country Profile pages to confirm whether a payment is required: <https://www.hcch.net/en/instruments/conventions/authorities1/?cid=17>; <https://www.hcch.net/en/instruments/specialised-sections/service/service-e-country-profile>.

After service has been effected by the Requested State's Central Authority, the completed Certificate will be returned to the Forwarding Authority. If successfully executed, it is *prima facie* evidence that service was made in compliance with the Hague Service Convention and with the laws of the Requested State. *Northrup King Co. v. Compania Productora Semillas Algodoneras*, 51 F.3d 1383, 1389 (8th Cir. 1995); *see also* The Hague Conference on Private International Law, *Conclusions & Recommendations*, at 9 ¶ 82 (June 2024), *available at* <https://assets.hcch.net/docs/6aef5b3a-a02c-408f-8277-8c995d56f255.pdf> [hereinafter C&Rs] (“[T]he effect of a Certificate certifying the execution of a request constitutes authoritative confirmation that service has been effected in conformity with the law of the requested State, and creates at least a rebuttable presumption that service was properly performed.”).

The HSC does not prescribe the time within which service is to be made. Experience teaches that the processing of foreign service requests varies considerably from country to country. Follow-up or status inquiries should be sent directly to the Requested State's Central Authority if no acknowledgment or other response is received within a reasonable period of time (30 days). C&Rs, at 10, ¶ 95(b). While not binding, recent guidance from the Hague Conference on Private International Law ("HCCH") encourages Central Authorities to execute service requests "as soon as practicable, preferably within 90 calendar days of its receipt." See HCCH, *Good Practices for Central Authorities and other designated Authorities under the 1965 Service Convention*, p. 6, available at <https://assets.hcch.net/docs/8977252b-a429-41c0-b1b9-017e65ad8abb.pdf>.

The Hague Service Convention also permits service through channels outside of the Central Authority, such as postal channels, when the Requested State does not object. See Hague Service Convention, art. 10(a); see also *Water Splash v. Menon*, 581 U.S. 271, 284 (2017) (holding that the Hague Service Convention permits service of judicial and extrajudicial documents by postal channels). Therefore, so long as the Requested State has not made an applicable declaration and the law of the Requesting State affirmatively authorizes service through an applicable means permitted under the Hague Service Convention, service of judicial or extrajudicial documents may be effected outside of the Central Authority. *E.g., id.*¹

Article 1 of the Hague Service Convention provides that it "shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad," with the exception that it "shall not apply where the address of the person to be served with the document is not known." The U.S. Supreme Court has further clarified that "[i]f the internal law of the forum state defines the applicable method of serving process as requiring the transmittal of documents abroad, then the Hague Service Convention applies." *Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 700 (1988). Because compliance with the Hague Service Convention is mandatory in such instances, parties cannot agree or stipulate to a method of service that the Hague Service Convention neither authorizes nor permits, including utilizing any method of service to which the Requested State has objected.

II. SERVICE ABROAD PURSUANT TO THE INTER-AMERICAN CONVENTION

Although more limited in geographic scope, the Additional Protocol to the Inter-American Convention on Letters Rogatory ("Inter-American Convention" or "IAC") also provides for effective and inexpensive service abroad of documents in civil or commercial cases. It does not apply to documents related to criminal cases. Article 25 of the Hague Service Convention states that it does not derogate from other agreements to which Contracting Parties have entered. Accordingly, service may be effected through the Inter-American Convention, even when the Hague Service Convention otherwise applies.

¹ The Hague Conference on Private International Law maintains a table summarizing the positions of each Contracting Party with respect to the channels permitted under the Hague Service Convention that is available here: <https://assets.hcch.net/docs/845a6226-b21f-4b01-ac56-8cb28bf8ce46.pdf>.

In contrast to the Hague Service Convention, a request for service under the Inter-American Convention must bear the signature and seal of the court where the U.S. action is pending and of the United States Central Authority, acting through its contractor ABC Legal.

A person who wishes to serve judicial documents relating to a state or federal proceeding using the Inter-American Convention should take the following steps:

1. Determine whether the country in which service is to be made is a party to the Inter-American Convention. A list of all parties to the IAC can be found here: <http://www.oas.org/juridico/english/sigs/b-46.html>;
2. Read the IAC. The full text of the Inter-American Convention can be found here: <http://www.oas.org/juridico/english/treaties/b-46.html>; and
3. Obtain a copy of the Inter-American Convention Request Form (“Request Form”) that **must** accompany a service request and is available here: <https://www.justice.gov/civil/page/file/914416/download>.

A. Instructions for Completing the Inter-American Convention Request Form

The Request Form is fairly self-explanatory. Here, we merely summarize the main requirements. It is incumbent upon the requesting party to properly complete the Request Form.

Form A – Letters Rogatory:

Page 1:

- ***Requesting Judicial or Other Adjudicatory Authority (Box 1):*** Enter the name and address of the presiding court or other judicial or adjudicatory authority (“Requesting Authority”) that is issuing the request to the Requested State’s Central Authority.
- ***Plaintiff v. Defendant (Box 2):*** Enter the names of the parties and docket number for the U.S. proceedings.
- ***Central Authority of the State of Origin (Box 3):*** Enter the address for ABC Legal (ABC Legal Services, 1099 Stewart St., Suite 700, Seattle, WA 98101)
- ***Central Authority of the State of Destination (Box 4):*** Enter the name and address of the Requested State’s Central Authority in Box 4. Designated Central Authorities can be found here: <http://www.oas.org/juridico/english/sigs/b-46.html>. ABC Legal may also be able to provide assistance in identifying this information.
- ***Requesting Party (Box 5):*** Enter the name and address of the party requesting service.
- ***Counsel to the Requesting Party (Box 6):*** Enter the name and address of the counsel for the requesting party.

Page 2:

- ***Requests their prompt service on:*** Enter the full name and address (including phone number and email address, if available) of the person or entity to be served. If available, include the date of birth or any other identifying information.
- ***Determine the manner of service requested (strike out any manner that is not sought).***
 - Describe a particular method service under (1) if requesting service to be performed in a specified manner so long as it is not contrary to the internal law of the Requested State. Otherwise, delete or strike out.
 - Make no changes to (2) or (3) unless the requesting party does not wish the Central Authority to attempt personal service on the addressee or authorized agent or to execute service under its internal law.
- ***Requests the delivery of the documents listed below to the following judicial or administrative authority:*** Enter the name and address of the Requested State's Central Authority in Box 4. Designated Central Authorities can be found here: <http://www.oas.org/juridico/english/signs/b-46.html>. ABC Legal may also be able to provide assistance in identifying this information.
- ***Requests the Central Authority of the State of destination to return to the Central Authority of the State of origin one copy of the documents listed below and attached to this letter rogatory, and an executed Certificate of the attached Form C:***
 - The clerk of the Requesting Authority, the judge overseeing the proceeding, or another competent court official completes the date and place of execution.
 - ***Signature and stamp of the judicial or other adjudicatory authority of the state of origin:*** The clerk of the Requesting Authority, the judge overseeing the proceeding, or another competent court official must place the seal and signature of the Requesting Authority on the form where it reads
 - ***Signature and stamp of the Central Authority of the State of origin:*** ABC Legal adds the U.S. Central Authority's signature and stamp before transmitting the request to the Requested State's Central Authority.
- ***Title or other identification of each document to be delivered:*** List all of the documents attached to the Request Form that are to be served.

Form B – Essential Information for the Addressee:

- **To:** Enter the full name and address (including phone number and email address, if available) of the person or entity to be served. If available, include the date of birth or any other identifying information.
- **You are hereby informed that:** Enter the appropriate information concerning the nature of documents being served and any time limits for entering an appearance or making a reply.

Form C – the Certificate of Execution: LEAVE BLANK. This page will be completed by the Requested State's Central Authority and will be returned to ABC Legal, who will then forward it to the requestor.

Note that the Inter-American Convention requires submission in triplicate of the Request Form and the documents to be served. The Inter-American Convention also requires translation of the complaint or initiating pleading. *See* art. 3(a). While attachments and rulings ordering the issuance of the letters rogatory are not required to be translated, translations may be prudent. *See* art. 3(b)-(c).

B. Execution Pursuant to the Inter-American Convention

- The completed Request Form and the documents to be served (and any necessary translations), in triplicate, should be submitted by mail or electronically by the requestor to ABC Legal.
- ABC Legal will sign and stamp the Request Form and submit it to the Requested State's Central Authority.
- The Requested State's Central Authority will issue a Certificate:
 - If service is effected, one copy of the documents served and the Certificate will be returned with information about the execution.
 - If service is not effected, for example if the person to be served cannot be found or the request does not comply with the IAC, then the documents will be returned along with a completed certificate explaining the reason.
- Service requests sent pursuant to the Inter-American Convention may take six months to a year to complete.

III. SERVICE IN COUNTRIES WITH WHICH THE UNITED STATES HAS NO TREATY ARRANGEMENT

- Absent a treaty, service abroad must be made by letters rogatory sent through diplomatic channels or in accordance with domestic law regulating extraterritorial service and in a manner which will comport with the laws of the foreign country in which the document is to be served. Information on serving through diplomatic

channels may be found here: <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-assistance/obtaining-evidence/Preparation-Letters-Rogatory.html>. Local counsel should be consulted to determine what, if any, options are available under foreign law.

- **A note of caution:** service of judicial documents is regarded in most civil law countries as a sovereign judicial function, and the laws of some countries make it a civil or criminal offense for any person to perform such sovereign judicial functions within their territories on behalf of a foreign court, without express permission from the local government. U.S. litigants may wish to consult with foreign counsel to ensure service is properly effectuated without violating foreign law or sovereignty.
- Service abroad on behalf of litigants in this country is not a function of United States diplomatic or consular missions. Under existing regulations, Foreign Service Officers are prohibited from serving legal process except when expressly authorized to do so by the Department of State. *See* 22 C.F.R. § 92.85.

IV. RESOURCES

- <https://www.justice.gov/civil/service-requests>
- <https://www.justice.gov/civil/media/1414296/dl?inline>
- <https://www.abcllegal.com/international-service-of-process/inter-american-convention>
- <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-assistance/Service-of-Process.html>
- <https://travel.state.gov/content/travel/en/legal-considerations/judicial/country.html>
- <https://www.hcch.net/en/instruments/conventions/specialised-sections/service>
- <http://www.oas.org/juridico/english/treaties/b-46.html>