

**Conference on *International Litigation in the Asia Pacific*
Wuhan, 23 - 24 September 2013**

**QUESTIONNAIRE ADDRESSED TO STATES PARTICIPATING IN THE ASIA PACIFIC
REGIONAL EVENT ON INTERNATIONAL LITIGATION**

The purpose of the Questionnaire is to collect information from States regarding the recognition and enforcement of foreign judgments and issues of international jurisdiction in the Asia Pacific region. This information will be used by the Permanent Bureau of the Hague Conference to create a country profile for each State that will assist delegates during the round table discussion session on the first day of the Conference. It is also hoped that the detailed information in the responses to this Questionnaire may be of use to participants beyond this conference.

The concept for the round table discussion session stems from the work the Permanent Bureau is currently undertaking on two key aspects of private international law in cross-border litigation: international jurisdiction and the recognition and enforcement of foreign judgments. A detailed chronology to the background of the work undertaken by the Hague Conference in this area can be located on the website of the Hague Conference < www.hcch.net >, under "Specialised Sections", then "Judgments Project".

The Questionnaire has two parts. Part I contains questions regarding the recognition and enforcement of foreign judgments and Part II contains questions on jurisdictional issues in international litigation. Please note that the Permanent Bureau has used the same terminology in the Questionnaire as that which was used in the two detailed notes that the Permanent Bureau recently prepared for the work being undertaken in this area. These notes identify the issues for consideration in the study of the recognition and enforcement of foreign judgments and jurisdiction in international litigation. For more information on these two topics and for a contextual background to the Questionnaire, please refer to these two notes which are located on the Judgments Project webpage listed above. The notes are titled, "Annotated Checklist of Issues to be discussed by the Working Group on Recognition and Enforcement of Judgments" (Note 1) "Issues Paper on Matters of Jurisdiction including Parallel Proceedings" (Note 2). A glossary of the terminology used is also located on the Judgments Project webpage, titled Annex I: Glossary to the Annotated Checklist.

The Permanent Bureau would very much appreciate receiving your response to this Questionnaire by 2 September 2013. Responses should be sent by e-mail to secretariat@hcch.net with the following heading and indication in the subject field: "Questionnaire concerning international litigation – [name of State]". Your co-operation in responding to this Questionnaire is very much appreciated and will greatly assist during the round table discussion session.

Identification (For follow-up purposes)

Name of the State: Lao PDR

Name of contact person: Vorlachit

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PART I – RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT DECISION

NOTE: If your State has a non-unified legal system (*i.e.*, two or more systems of law which apply in different territorial units), and the information is available, please indicate the jurisdiction/s referred to in your answers.

1. Is your State a party to any bilateral and/or multilateral treaties and/or agreements that govern the recognition and enforcement of foreign judgments?

YES
 NO

If yes, please specify.

Maybe identify in the meeting

2. Does your State have rules of national law that govern the recognition and enforcement of foreign court judgments in your State? (*i.e.*, legislation or case law)

YES
 NO

If yes, please specify.

Civil Procedure Law

3. Which courts in your State hear applications for the recognition and enforcement of foreign judgments?

Please specify.

the Capital and Provincial court

4. Are there specific conditions that need to be met in order for a judgment to be recognised and enforced by a court in your State?

YES
 NO

If yes, under what circumstances (*e.g.*, the jurisdiction of the foreign court must be recognised, the respondent to the application for recognition and enforcement must have assets in your State, the judgment must be a monetary judgment that is final and conclusive)?

As stipulated in article 362 of civil procedure law, the acknowledgment of a Decision of a Foreign Court

The Lao PDR acknowledges and executes the decisions of foreign courts through its embassy, or consular or representative offices of the Lao PDR in such foreign country. Such decisions shall be translated into Lao and the Lao PDR court shall consider in the following cases:

1. Decisions of those countries which are signatories to treaties to which the Lao PDR is a signatory;
2. Decisions that do not cause adverse impact on the sovereignty or contradict the laws of the Lao PDR;
3. Decisions that do not cause adverse impact on the security and social order.

The acknowledgment of a decision of the foreign arbitral award shall be implemented in the same way as the acknowledgment of a decision of foreign court.

In addition, article 363 of Civil Procedure Law also stipulated the request that the request for the Acknowledgment of a Decision of Foreign Court.

A request for consideration to acknowledge a decision of foreign court and to be implemented in the Lao PDR, must be submitted through the Ministry of Foreign Affairs in order to be presented to the Ministry of Justice for consideration before sending to the people's supreme court then to send to the court having authority to consider in accordance with the laws and regulations.

A request to acknowledge a decision of foreign court must comprise of the main content as follows:

1. Name, surname and address of a person who makes a request;
2. Name, surname and address of a person who lost the case following a decision of foreign court;
3. A request that indicates the amount of debt, assets which are remained unpaid;
4. Signature of a person who makes a request.

The request must be translated into the Lao language and certified by the Notary Office.

The cost incurred in this case proceeding shall comply with the Law on Court Fees.

5. Can a court in your State refuse to recognise and enforce a foreign court judgment that otherwise meets the specific conditions identified in Part I question 4?

- YES
 NO

If yes, under what conditions (*e.g.*, procedural fairness, lack of proper notice to the defendant, an inconsistent foreign or domestic judgment, parallel domestic proceedings)? In addition, are those grounds for refusal raised on the court's own motion or by the party opposing the recognition and enforcement application?

As defined by article 366 of civil procedure law. A Decision to Acknowledge or Deny to Acknowledge a Decision of Foreign Court

The court may consider whether to acknowledge or deny acknowledging a decision of a foreign court upon a request.

The court shall consider denying the acknowledgment of the decision of a foreign court upon a request in any events as follows:

1. Such decision still remains in the process of a case proceeding which is not yet a final decision;
2. A person who loses the case in the decision of foreign court has not yet participated in the case proceeding with a decision conducted on his absence;
3. The case proceeded by the foreign court falls under the jurisdiction of the court of the Lao PDR to proceed;
4. Such decision contradicts with the Constitution and the Laws of the Lao PDR;
5. Other matters relating to the decision of the foreign court.

6. Is recognition and enforcement of a foreign judgment subject to a special procedure before a court in your State?

- YES
 NO

If yes, please describe the procedure.

In article 363 of Civil Procedure Law also stipulated the request that the request for the Acknowledgment of a Decision of Foreign Court.

A request for consideration to acknowledge a decision of foreign court and to be implemented in the Lao PDR, must be submitted through the Ministry of Foreign

Affairs in order to be presented to the Ministry of Justice for consideration before sending to the people's supreme court then to send to the court having authority to consider in accordance with the laws and regulations. In addition article 365 (New) stipulated that consideration Process for Acknowledgment of a Decision of Foreign Court

Upon receiving a request to recognize a decision of foreign court, the concerned court of the Lao PDR must bring documents to form a case file and lodge a claim then giving to the Judge to scrutinize.

The court must call a person who loses the case following the decision of the foreign court and who has a residence in the Lao PDR to be aware and explain to the court.

The court must adjudicate and decide on such case within the period not to exceed 30 days.

The court must invite the Head of the Public Prosecutor Office at its level to attend the consideration of such matter.

7. What types of judgments are entitled to recognition and enforcement in your State?

Judgments entered in default
Comments.

Provisional and protective measures
Comments.

Non-money judgments
Comments.

Judgments awarding non-compensatory damages
Comments.

Other.

If other, please specify.

8. In your State, is it possible to appeal a courts decision to recognise and enforce a foreign judgment?

YES

NO

If yes, under what circumstances.

Article 368 (New). Seeking an Appeal or Objection Request of the Decision

Litigants or Head of the Public Prosecutor's Office have the rights to seek an appeal or to request for an objection of the sentence of the court of the Lao PDR which acknowledge or not acknowledge the decision of the foreign court within the period of twenty days from the date receiving the decision onwards.

Once the appeal or the objection request of such decision is made, the relevant court must send the file to the court of appeal to consider the reason of the appeal or the request for objection.

The decision of the court of appeal regarding such matters shall be deemed as the final sentence which cannot be repealed.

9. What is the frequency of applications for recognition and enforcement of foreign court decisions per year? It is appreciated that this information may not be readily available in your Ministry however; such information may possibly be obtainable from the courts in your State.

- 0-5
 5-10
 10 - 20
 more than 20.

Any comments.

10. How many applications for the recognition and enforcement of a foreign court decision are granted in your State?

- 0-5
 5-10
 10 - 20
 more than 20.

Any comments.

PART II – JURISDICTIONAL REQUIREMENTS

1. Is your State a party to any bilateral and/or multilateral treaties and/or agreements that govern issues of jurisdiction in international litigation?

- YES
 NO

If yes, please specify.

will be indicate in the meeting

2. Does your State have rules of national law that govern issues of jurisdiction in international litigation in your State? (*i.e.*, legislation or case law)

- YES
 NO

If yes, please specify.

In article 361 (Amended) defined the Proceedings Involving Foreign Elements

Individuals, organizations or enterprises in the Lao PDR wishing to submit a claim against individuals, organizations or enterprises residing in other countries or individuals, organizations or enterprises in foreign countries wishing to submit a claim against individuals, organizations or enterprises in the Lao PDR must comply with treaties relating judicial cooperation. In the event that such treaties do not exist, the claim must be submitted through the Ministry of Foreign Affairs to the concerned authority in the country where the defendant resides for consideration.

Any conflicts among foreigners which specified in the agreement that the conflict must be solved by the Lao PDR court, must comply with the Law on Civil Procedure.

3. Have the rules of international jurisdiction in your State recently been reviewed? (e.g., by the legislators, law reform bodies, other professional bodies).

YES

NO

Comments

4. In which of the following situations would the courts in your State have jurisdiction:

where the defendant voluntarily submits to the jurisdiction

Comments

where the defendant is domiciled or resides in your State

Comments

where the defendant carries out regular commercial activity in your State

Comments

where the contract is performed or there is a breach of contract in your State

Comments

where a contract is concluded executed between parties in your State

Comments

where the parties to the dispute have designated the courts of your State for the purpose of deciding disputes between them?

Comments

where an injury occurs to a person as the result of a tortuous act occurring in your State

Comments

where damage occurs to tangible property as the result of a tortuous act occurring in your State

Comments

where the defendant does not reside in your State, but the defendant's immovable property is held in your State

Comments

Other

Please specify

5. Is the nature of the above-mentioned grounds such that without these present a court is not entitled to hear a case?

YES

NO

Comments.

6. In which of the following situations would a court, otherwise having jurisdiction as described in part II question 4, decline to exercise its jurisdiction in your State:

where there are identical proceedings (proceedings involving the same parties and the same cause of action) occurring in another State's courts

Please indicate the relevant source of law and any comments.

where there are related proceedings (those proceedings that do not have identical parties and causes of action but have related causes of action and parties)

Please indicate the relevant source of law and any comments.

where the court determines that it is an inappropriate forum

Please indicate the relevant source of law and any comments.

In article 366 (New) of Civil Procedure Law defined that a Decision to Acknowledge or Deny to Acknowledge a Decision of Foreign Court

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2. A person who loses the case in the decision of foreign court has not yet participated in the case proceeding with a decision conducted on his absence;

3. The case proceeded by the foreign court falls under the jurisdiction of the court of the Lao PDR to proceed;

4. Such decision contradicts with the Constitution and the Laws of the Lao PDR;

5. Other matters relating to the decision of the foreign court.

where it is in the interests of justice to do so

Please provide any comments

other
Please indicate.