

Questionnaire relating to the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service Convention)*

Responding State:

United States of America

I. General Feedback

1. How does your State rate the general operation of the Service Convention?
 - (b) Good.
2. How does your State rate the useability of the HCCH [Practical Handbook on the Operation of the Service Convention](#)?
 - (b) Good.
3. Does your State's Central Authority have a manual or electronic case management register or system that is used to track incoming requests under the Service Convention?
 - (a) Yes – electronic for incoming only.
4. If your State's Central Authority has oversight for all outgoing requests, please indicate if there is a system used to track the progress of these.
 - (d) Other.
"The U.S. Central Authority does not have oversight for outgoing requests."

II. Scope of the Convention

5. In the previous five years*, has your State experienced any difficulties in interpreting the scope of the Service Convention?

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

- (d) No.

A. Extrajudicial documents

6. Is the concept of "extrajudicial documents" (Art. 17) defined in the internal law of your State?
 - (b) No.
7. What types of extrajudicial documents are **transmitted** under the Service Convention by your State?

"Most incoming requests are only for judicial documents; however, some of the requests for service of extrajudicial documents that have been transmitted are from attorneys, usually in connection with litigation or in anticipation of litigation, notices from foreign government agencies, or settlement demands from prosecutor's offices."

III. Operation of the Convention

Requesting State refers to the State from which a request for service is, or will be, issued.

Requested State refers to the State to which a request for service is, or will be, addressed.

8. As the **requested State**, does your State provide assistance to locate a person to be served under the Service Convention?

(The Special Commission, at its 2014 meeting, encouraged Contracting Parties to provide such assistance consistent with their legal and structural capabilities, when able to do so, see C&R No 23.)

- (a) Yes.

“The U.S. Central Authority delegated the ministerial act of service on private individuals and companies pursuant to the Convention to ABC Legal Services, a process server. All incoming requests for service under the Convention for private individuals and companies are transmitted to and executed by ABC Legal Services. ABC Legal will attempt to resolve issues with incomplete or incorrect addresses by finding the closest possible match to the address provided in the request. If, in the course of attempts to serve, it is discovered that the subject or entity can no longer be found at the requested address, ABC Legal provides a complimentary investigation to locate the subject. ABC Legal’s investigation department can use a name, previous address, and/or date of birth to conduct a search to find a new or updated address. If a valid new address is identified, ABC Legal will confirm with the foreign applicant whether a new attempt at service should be made for an additional fee.”

9. As the **requesting State**, how would your State transmit a document for service upon another State, a State official, or a State-owned company?

- (b) The Service Convention would apply, through:

- (i) Main channel of transmission (Art. 5);
- (iv) Indirect diplomatic channel (Art. 9(2));
- (v) Postal channel (Art. 10(a));

10. As the **requested State**, how is a request for service on your State, State official or State-owned company executed?

“Requests for service on the United States Government, which includes its officials (when named in an official capacity), departments, agencies, or instrumentalities, can be transmitted to the U.S. Central Authority under Article 5 of the Hague Service Convention or through diplomatic channels under customary international law. If the request for service complies with the requirements of the Hague Service Convention (if serving pursuant to the Convention) and customary international law requirements, service is executed by serving the appropriate United States Government office. While the United States does not object to Article 10 service by postal channels for private individuals or companies, service on the United States Government cannot be effected through Article 10. For more information, please see: <https://www.justice.gov/civil/service-requests>.”

11. Does your State serve judicial and extrajudicial documents in the same way?

- (a) Yes.

A. Main Channel of Transmission (Art. 5)

12. In your State, what are the authorities or who are the persons competent to forward a request for service to a foreign Central Authority?

- (a) Courts / Tribunals.
- (b) Prosecutors.
- (e) Process servers.

(g) Other.

“The persons and entities within the United States competent to transmit service requests abroad pursuant to Article 5 of the Convention include any court official, any attorney, or any other person or entity authorized by the rules of the court. See Rule 4 of the Federal Rules of Civil Procedure.”

13. Do outgoing requests for service have to be transmitted through your State’s Central Authority?

(b) No.

14. As the **requested State**, when no particular method is requested by the applicant, what is the primary / default method of service? (Art. 5(1)(a))

(b) Personal service.

15. In the previous five years*, as the **requested State**, has your State **received** a request with a particular method of service requested by the applicant? (Art. 5(1)(b))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

15.1. If yes, what method of service was requested?

(a) Personal service.

(b) By post.

15.2. If yes, was the requested method of service able to be executed?

(a) Yes.

16. In the previous five years*, as the **requesting State**, has your State’s forwarding authorities requested a particular method of service? (Art. 5(1)(b))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(c) Unknown.

16.1. If yes, what particular method of service was requested?

N/A

16.2. If yes, was the requested method of service able to be executed?

N/A

16.3. If yes, were there costs associated with this method of service?

N/A

B. Alternative Channels of Transmission (Arts 8, 9 & 10)

State of origin refers to the State in which proceedings are commenced and where the document to be served originates.

State of destination refers to the State where service is, or will be, effected.

1. Model Form

Use of the Model Form is mandatory for the main channel of transmission. The Special Commission, at its 2009 meeting, urged State Parties to widely encourage the use of the part of the Model Form containing the “Summary”, accompanied by the “Warning” (see C&R No 31).

17. As the **State of origin**, does your State use the “Warning” and “Summary” sections of the Model Form when transmitting a request through alternative channels?

(d) Unknown.

18. As the **State of destination**, does your State use the “Certificate” section of the Model Form when informing whether documents have been served (in response to a request received through alternative channels)?

(d) Unknown.

2. Diplomatic and Consular Agents (Art. 8)

19. In the previous five years*, have the diplomatic or consular agents of your State directly effected service of judicial or extrajudicial documents upon a person abroad? (Art. 8(1))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(b) No.

20. In the previous five years*, has service by diplomatic or consular agents of your State been rejected by the addressee? (Art. 8(1))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(c) Unknown.

3. Diplomatic and Consular Channels (Art. 9)

21. In the previous five years*, has your State used consular channels to forward documents? (Art. 9(1))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(b) No.

22. In the previous five years*, under exceptional circumstances, has your State used diplomatic channels to forward documents? (Art. 9(2))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

“Requests for service through diplomatic channels, traditionally under customary international law, have been transmitted for service on a foreign state. The process for outgoing requests for service on a foreign state is governed by 28 U.S.C. § 1608(a).”

4. Postal Channel (Art. 10(a))

23. Has your State (as the **State of destination**) objected to service under Article 10(a)?

(b) No.

23.1. If an objection has been made under Article 10(a), does your State continue to use postal channels for service as the State of origin, despite the objection?

N/A

23.2. If no objection has been made, does your State, as the **State of destination**, accept the use of postal channels for service from other States of origin that have made an objection under Article 10(a)?

(a) Yes.

23.3. If no objection has been made, which of the following categories does your State recognise as a “postal channel” under Article 10(a)?

- (a) Regular post.
- (b) Registered (tracked) post, with receipt.
- (c) Private courier, such as FedEx.
- (d) E-mail

23.4. If no objection has been made, more specifically, would your State consider service by e-mail to be analogous to service by postal channels under Art. 10(a)?

(a) Yes.

23.5. If no objection has been made, does your State require the documents served to be translated into one of your State’s official languages?

(b) No.

5. Judicial Officers, Officials or other Competent Persons (Art. 10(b))

24. Has your State objected to service under Article 10(b)?

(b) No.

24.1. If no objection has been made, which of the following categories does your State recognise as a “judicial officer, official or other competent person” under Article 10(b), either for sending or receiving?

- (a) Attorney or solicitor.
- (d) Court official.
- (g) Process server.
- (h) Other.

“See Rule 4 of the Federal Rules of Civil Procedure or applicable U.S. state civil procedure rules for the competent parties in the United States who can effect service.”

24.2. If no objection has been made, how does this channel of transmission operate in practice?

“The United States has no objection to the informal delivery of such documents by members of diplomatic or consular missions in the United States, through the mail, or by private persons, if that would be effective under applicable law, provided no compulsion is used. See Rule 4 of the Federal Rules of Civil Procedure or applicable U.S. state civil procedure rules for the competent parties in the United States who can effect service and how service is effected.”

24.3. If no objection has been made, are there costs associated with this channel of transmission?

- (a) Yes.
“Private process servers charge a fee per request for service.”

6. Person Interested in a Judicial Proceeding (Art. 10(c))

25. Has your State objected to service under Article 10(c)?

- (b) No.

25.1. If no, which of the following categories does your State recognise as “any person interested in a judicial proceeding” under Article 10(c), either for sending or receiving?

- (a) Attorney or solicitor.
- (b) Bailiff.
- (c) *Huissier*.
- (d) Court official.
- (e) Notary.
- (g) Other.

“See Rule 4 of the Federal Rules of Civil Procedure or applicable U.S. state civil procedure rules for the competent parties in the United States who can effect service.”

25.2. If no, how does this channel of transmission operate in practice?

“The United States has no objection to the informal delivery of such documents by members of diplomatic or consular missions in the United States, through the mail, or by private persons, if that would be effective under applicable law, provided no compulsion is used. See Rule 4 of the Federal Rules of Civil Procedure or applicable U.S. state civil procedure rules for the competent parties in the United States who can effect service and how service is effected.”

25.3. If no, are there costs associated with this channel of transmission?

- (a) Yes.
“Private process servers charge a fee per request for service.”

C. Refusal to Execute Request (Art. 13)

26. In the previous five years*, has your State refused a request for service on grounds of infringing “sovereignty or security”?

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

- (a) Yes.

“In the past five years, the U.S. Central Authority has refused to execute 43 requests for service on the grounds of that the request infringed on the “sovereignty or security” of the United States. Common grounds for asserting an Article 13 rejection include, but are not limited to, garnishment of sovereign funds, claims relating to wartime activities, attachment of sovereign assets, and no record of service of the underlying proceeding when seeking to serve or enforce a default judgment. There are no U.S. court decisions to attach as U.S. courts do not review incoming service requests to make a determination of whether a request should be refused on the basis of Article 13.”

27. In the previous five years*, has a request from your State been refused on grounds of infringing “sovereignty or security”?

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

- (c) Unknown.

IV. Use of Information Technology

In 2019, the PB circulated a questionnaire on the use of information technology in relation to the operation of the Service Convention. That survey was concluded prior to the COVID-19 pandemic. The questions below seek information from Contracting Parties on the use of technology and in light of the pandemic.

28. Has your State taken any steps (including through legislation) to enable or increase the use of technology to facilitate the operation of the Service Convention, including in response to the COVID-19 pandemic?

- (a) Yes.

“ABC Legal Services, the U.S. Central Authority’s designated process server for all incoming Convention requests for private individuals and companies, uses an online database and platform. The platform allows requesting authorities to upload their requests for service online, make the necessary payment, receive status and progress updates, communicate with staff, and obtain their proof of service. ABC Legal also accepts requests by email. The entire process of transmission of requests to ABC Legal, correspondence, and the transmission of the proof of service can now be done electronically.”

29. Do the forwarding authorities of your State transmit requests under the Service Convention electronically?

- (a) Yes.

29.1. If yes, what methods of transmission do the forwarding authorities of your State use?

- (a) E-mail (regular).
- (b) E-mail (secured / encrypted).

30. Does your State's Central Authority accept requests under the Service Convention transmitted electronically in circumstances where **only** an electronic copy is provided (and where a paper copy is not subsequently provided)?

- (a) Yes.

30.1. If yes, what methods of transmission does your State accept?

- (a) E-mail (regular).
- (b) E-mail (secured / encrypted).
- (d) Electronic transmission via online platform administered by a private service provider.

30.2. If no, please provide further information about why this is not yet possible.

N/A

31. Does your State permit execution of service via electronic means?

- (g) Other.
"See Rule 4 of the Federal Rules of Civil Procedure or applicable U.S. state civil procedure rules for the competent parties in the United States who can effect service and how service is effected. Service by electronic means may be allowed but typically only if the parties consent to service by email or a U.S. court grants permission in domestic litigation to serve by email. Service by email is not a form of service currently utilized by the U.S. Central Authority (and ABC Legal) under the Convention."

31.1. If no, what are your State's reasons for refusing to execute the requests for service to be performed by using information technology?

N/A

32. What challenges, if any, has your State faced regarding the use of information technology under the Service Convention?

- (h) Other.
"Incoming requests for service under the Convention are too voluminous; too many documents are sent, making electronic transmission impossible."

33. In your State's opinion, what further work could the PB do on the use of information technology under the Service Convention?

- (b) Development of a Guide to Good Practice.
- (c) Other.
"Further clarification from countries whether they allow service by email. Promoting the use of electronic means to transmit service requests and proofs of service."

34. In addition to the Service Convention, is your State a Party to any bilateral, regional, or multilateral agreements that provide rules for the service of documents abroad?

- (a) Yes.

For Parties that answered “yes” to Q34 above:

34.1. Do any of these agreements provide for the use of electronic means (e.g., e-mail) to transmit or execute requests for service?

(b) No.

V. 2023 Meeting of the Special Commission & Monitoring

35. What are the three key topics or practical issues related to the Service Convention that your State would like discussed at the 2023 meeting of the Special Commission?

1. *“Service by email and whether an Article 10(a) objection to service by postal channels is analogous to objecting to service by email. How service pursuant to Article 5(c) works in practice and promoting a better understanding of Article 5(c) among contracting states.”*
2. *“Adherence to technical Convention requirements and country-specific requirements for making a proper Convention request. What documents for service should be transmitted abroad with the goal of reducing voluminous requests for service which hinder or prohibit being able to transmit the request electronically.”*
3. *“Providing contact information for foreign applicants; completing and updating Practical Information pages for contracting states. Educating courts on the significance of certificates rejecting a service request.”*

35.1. Please indicate whether the information provided in Q35 above may be published.

(a) Yes.

36. Does your State have any suggestions that could assist in the promotion, implementation, or operation of the Service Convention?

(a) Yes.

- “-Encouraging contracting states to adopt electronic transmission of requests for service and electronic transmission of the certificate/proof of service.*
- Encouraging countries to complete and update their Practical Information pages. Switching the Practical Information pages to a portal that allows Central Authorities to directly update and edit their information.*
- Workshops or seminars where contracting states can exchange lessons learned and best practices; trainings for contracting states who have recently joined the Convention.*
- Quarterly meetings by video-link for Central Authorities to network and discuss current issues with the operability of the Convention.*
- An email distribution list for Central Authorities so updates and developments can be easily and quickly shared among contracting states.”*

36.1. If the answer to Q36 above is “yes”, please indicate whether the information provided may be published.

(a) Yes.

37. The PB is in the process of revising the Service Handbook. Are there any specific topics, suggestions for presentation or formatting, or any other proposals you recommend for inclusion?

(a) Yes.

“-Drawing a distinction between service of process (judicial and extrajudicial documents) and service of a subpoena or a request for evidence. Further discussion is needed whether the Hague Service Convention is or is not an appropriate vehicle for service of a subpoena.

-A specific section asking contracting states which alternative service means are permissible, such as service by email or publication.

-Which contracting states permit service through the Hague Service Convention Article 5 for service on a foreign state.

-Better explanations of how Articles 8, 9, and 10 operate in practice and how they are implemented by various contracting states.

-Further discussion of “civil or commercial” and what matters are considered to be outside the scope of the Convention and how the definition of “civil or commercial” may have changed over time.

-What contracting states provide assistance with finding and/or confirming addresses. What is the process for contracting states who can provide assistance with finding and/or confirming an address.

-The distinction between transmitting a service request to a Central Authority and effecting service upon a defendant. The Central Authority may not be treated as an agent of the defendant on whom the document is to be served, especially when serving a foreign state.”

37.1. If the answer to Q37 above is “yes”, please indicate whether the information provided may be published.

(a) Yes.

DATA & STATISTICS FOR CONTRACTING PARTIES

I. Statistics under Main Channel of Transmission (Art. 5)

A. Incoming Requests

1. How many incoming requests for service did your State receive under the main channel of transmission (Art. 5) in each of the following years?

2017	7182
2018	7857
2019	8046
2020	5835
2021	8272
2022	7323
Unknown – <i>please explain.</i>	
-	

2. Which three States made the most requests?

Requesting State	Number
France	11929
Germany	7662
Vietnam	4027

3. If possible, please provide a breakdown of how long (in months) it took to execute incoming requests.

	< 1	1-3	3-6	6-12	> 12
2017	x				
2018	x				
2019	x				
2020	x				
2021	x				
2022 (if data available)	x				
Unknown – <i>please explain.</i>					
-					

4. How many of these incoming requests for service did your State receive via **electronic transmission** in each of the following years?

2017	0
2018	2
2019	1
2020	886
2021	952
2022	1086
Unknown - <i>please explain.</i>	
-	

5. How many incoming requests for service did your State **execute for service** via electronic means in each of the following years?

This is regardless of whether a paper copy of the documents was subsequently provided.

2017	0
2018	0
2019	0
2020	0
2021	0
2022	0
Unknown - <i>please explain.</i>	
-	

6. Are execution times for electronically transmitted requests for service generally faster than those transmitted by post?

(a) Yes, significantly faster.

B. Outgoing Requests

7. How many outgoing requests for service did your State make under the main channel of transmission (Art. 5) in each of the following years?

2017	-
2018	-
2019	-
2020	-
2021	-
2022	-
Unknown – please explain. “The U.S. Central Authority does not have oversight for outgoing requests.”	

8. Which three States were the subject of the most requests?

N/A

9. How many outgoing requests for service did your State make via electronic transmission under the main channel of transmission (Art. 5) in each of the following years?

2017	-
2018	-
2019	-
2020	-
2021	-
2022	-
Unknown – please explain. “The U.S. Central Authority does not have oversight for outgoing requests.”	

II. Statistics under Alternative Channels of Transmission

10. Does your State have statistics on incoming requests under alternative channels of transmission?

- (a) Yes, Article 8.
- (b) Yes, Article 9.
- (c) Yes, Article 10(a).
- (d) Yes, Article 10(b).
- (e) Yes, Article 10(c).
- (x) No, none of the above.

10.1. If yes, how many (total) incoming requests for service did your State receive under the alternative channels of transmission in each of the following years?

N/A

III. Refusals (Art. 13)

11. If applicable, please indicate how many incoming requests for service your State refused to comply with between 2017 and 2022?

“43 incoming requests. Of the 43 requests, 28 requests were submitted in relation to unique cases, the remaining refusals were issued in relation to previous cases.”

12. If applicable, please indicate how many outgoing requests for service transmitted by your State were refused between 2017 and 2022?

“Unknown. The U.S. Central Authority does not have oversight for outgoing requests.”

CASE LAW, ADDITIONAL INFORMATION & SUPPORTING DOCUMENTS

I. Case Law

Please list all your State's judicial decisions that have considered the Service Convention since 2014 and provide a link to, or upload the decisions (in PDF format only).

1 file uploaded.

II. Additional Documents

Please provide links to and / or any additional information or documentation to support your response (in PDF format only). This may include:

- ⇒ resources for the general public or guidelines for Central or other Authorities' staff;
- ⇒ implementation legislations, recent legislative developments; or
- ⇒ books, articles, or other published work.

1 file uploaded.

PUBLICATION OF RESPONSES

Please confirm whether your responses to this questionnaire can be published on the HCCH website.

(a) Yes.