

ARGENTINA - revised

II. Questions for Contracting States

A. "Service Section" of the HCCH website

- 4) On the "Service Section" of the HCCH website, the Permanent Bureau currently provides practical information for each Contracting State that was mainly obtained from the responses to the 2003 Questionnaire accompanying the provisional version of the new edition of the Practical Handbook on the operation of the Service Convention (2003 Service Questionnaire). This practical information, which is presented in form of a chart, consists of the following:
- 1) Contact details of each of the Central Authorities (Arts 2 and 18)
 - 2) Forwarding authorities (Art. 3(1))
 - 3) Methods of service (Art. 5(1) and (2))
 - 4) Translation requirements (Art. 5(3))
 - 5) Costs relating to the execution of the request for service (Art. 12)
 - 6) Time for the execution of a request
 - 7) Judicial officers, officials and other competent persons (Art. 10 *b*) and *c*)
 - 8) Oppositions and declarations (Art. 21(2), in particular with respect to Arts 8(2), 10 *a*), *b*) and *c*), 15(2) and 16(3))
 - 9) Derogatory channels (bilateral or multilateral agreements or domestic law permitting other transmission channels (Arts 11, 19, 24 and 25)
 - 10) Useful links

The Permanent Bureau invites your State to peruse the "Service Section" and to verify if all the information contained in the practical information chart for your State is (still) correct or if it needs to be updated, amended or supplemented. **The States that currently do not have a chart of practical information on the "Service Section" are kindly invited to submit this information to the Permanent Bureau.**

Contact details:	
Address:	Ministry of Foreign Affairs, International Trade and Worship Esmeralda 1212 C1007ABR BUENOS AIRES Argentina
Telephone:	+ 54 (11) 4819 7000/7171
Fax:	+54(11)4819 7170/7121
E-mail:	msc@mrecic.gov.ar
General website:	http://www.mrecic.gov.ar
Contact person:	María del Carmen Seoane de Chiodi
Languages spoken by staff:	Spanish, English, French, Portuguese

Practical Information:	
Forwarding authorities (Art. 3(1)):	Judicial authorities and those that have jurisdictional functions (mediators, Chamber of Commerce, Securities National Commission, Federal Tax Court, etc.

Methods of service (Art. 5(1)(2)):	Service is only admissible through judicial channels
Translation requirements (Art. 5(3)):	The Argentine Republic shall not accept documents to be served or transmitted unless they are accompanied by a translation into the Spanish language. (See declarations)
Costs relating to execution of the request for service (Art. 12):	It has no costs
Time for execution of request:	Argentine legislation does not establishes a period of time for services to be made.
Oppositions and declarations (Art. 21(2)):	(Click here to read all the Argentinian declarations and reservations under this Convention.)
Art. 8(2):	No opposition
Art. 10(a):	Opposition
Art. 10(b):	Opposition
Art. 10(c):	Opposition
Art. 15(2):	Declaration of applicability
Art. 16(3):	Declaration of applicability
Derogatory channels (bilateral or multilateral agreements or internal law permitting other transmission channels) (Arts. 11, 19, 24 and 25) Disclaimer: <i>Information may not be complete or fully updated – please contact the relevant authorities to verify this information.</i>	<p>Bilateral:</p> <ul style="list-style-type: none"> - Tratado de Cooperación y Asistencia Jurisdiccional en Materia Civil, Comercial, Laboral y Administrativa entre la República Argentina y la Federación de Rusia. 20/11/2000. Ley 25.595 (22/05/2002) - Convención de asistencia judicial y de reconocimiento y ejecución de sentencias en materia civil entre la República Argentina y la República Italiana. Roma, Italia, 09 de Diciembre de 1987. Ley n° 23.720 (01/07/1990) - Acuerdo sobre Cooperación Judicial en materia Civil, Comercial, Laboral y Administrativa entre la República Argentina y la República Federativa del Brasil, Brasilia, 20/08/1991. Ley N° 24.108(01/07/1992) <p>Multilateral</p> <ul style="list-style-type: none"> - Inter-American Convention on Letters Rogatory (Panama City, 13 January 1975). - Additional Protocol to the Inter-American Convention on Letters Rogatory (Montevideo, 8 May 1979) www.oas.org - Protocolo de Cooperación y Asistencia Jurisdiccional en Materia Civil, Comercial, Laboral y Administrativa

	(MERCOSUR/CMC/DEC N° 5/92) - Acuerdo Complementario al Protocolo de Cooperación y Asistencia Jurisdiccional en Materia Civil, Laboral y Administrativa (MERCOSUR/CMC/DEC N° 5/97) (Asuncion, 14 June 1997) http://200.40.51.219/msweb/principal/contenido.asp
Useful links:	www.mrecic.gov.ar/portal/seree/dgcin/multilateral.html

5) Would your State consider that the information provided on the "Service Section" of the HCCH website is:

Very useful

Useful – would you have any suggestions for improvement?

Not useful – would you have any suggestions for improvement?

B. Contact details for designated Authorities

6) Please check the contact information as contained on the HCCH website with regards to the **Central Authority(ies)** designated by your State (Arts 2 and 18(3)). If one of the following categories of information is missing then please provide it below (please provide both a postal address and a street address, if these are not identical):

Name of Authority: [Office of International Assistance, Legal Affairs Department, Ministry of Foreign Affairs, International Trade and Worship \(Dirección de Asistencia Jurídica Internacional, Dirección General de Asuntos Jurídicos, Ministerio de Relaciones Exteriores, Comercio Internacional y Culto\)](#)

Address: [Esmeralda 1212 – 4° Piso. \(1007\) BUENOS AIRES](#)

Telephone: [+54 \(11\) 4819 7171; +54 \(11\) 4819 7000 \(Int.7170\)](#)

Fax: [+54 \(11\) 4819 7170; +54 \(11\) 4819 7121](#)

E-mail: msc@mrecic.gov.ar

Website: www.mrecic.gov.ar

Language(s) of communication: [Spanish, English, French, Portuguese](#)

Name of contact person: [María del Carmen Seoane de Chiodi, Directora de Asistencia Jurídica Internacional](#)

If your State is a federal State that has designated several Central Authorities under Article 18(3) and one of the above categories is missing for more than one Central Authority designated, please provide separate details for each of those Central Authorities (copy and paste if necessary – also, please provide both a postal address and a street address, if these are not identical):

Name of Authority:

Address:

Telephone:

Fax:

E-mail:

Website:

Language(s) of communication:

Name of contact person:

- 7) Please also verify the contact information as contained on the HCCH website with regards to the following authorities in your State, *if applicable*. If one of the following categories of information is missing then please provide it below (please provide both a postal address and a street address, if these are not identical):

- a. **Other Authorities** that may have been designated in addition to the Central Authority (Art. 18(1)):

Name of Authority:

Address:

Telephone:

Fax:

E-mail:

Website:

Language(s) of communication:

Name of contact person:

- b. An **Authority** that may have been designated instead of the Central Authority to complete the Certificate in the form of the model annexed to the Service Convention (Art. 6(1)):

Name of Authority:

Address:

Telephone:

Fax:

E-mail:

Website:

Language(s) of communication:

Name of contact person:

- c. The **Competent Authority** that receives documents transmitted by indirect diplomatic or consular channels (Art. 9(1)):

Name of Authority:

Address:

Telephone:

Fax:

E-mail:

Website:

Language(s) of communication:

Name of contact person:

- 8) In Conclusion and Recommendation No 48, the 2003 Special Commission invited all States to provide information on the forwarding authorities (the authority or judicial officer competent under the law of the requesting State to forward to the Central Authority of the requested State the request for service) and their competences for

this information to be posted on the HCCH website. If your State has not yet done so, please provide comprehensive information to this effect below (obviously, the Permanent Bureau is not asking for a comprehensive list of individuals who may be forwarding authorities, but rather for a reference to all the categories of authorities, officials or professionals that may be forwarding authorities, for example "the courts", "bailiffs", "(professional) process servers", etc.):

Judicial authorities and those that have jurisdictional functions (mediators, Chamber of Commerce, Securities National commission, Federal Tax Court, etc.

Autoridades judiciales y aquellas que posean funciones jurisdiccionales (mediadores, Cámara de Comercio, Comisión Nacional de Valores, Tribunal Fiscal de la Nación.

C. Statistics

This Central Authority does not have the possibility of obtaining statistics related to the Service Convention, since the current IT system does not reflect the number of incoming or outgoing cases being processed.

Esta Autoridad Central no tiene la posibilidad de proveer datos estadísticos relativos a la convención de notificaciones, dado que el sistema informático actualmente en uso no permite conocer la cantidad de casos entrantes o salientes en curso.

Main Channel of Transmission (Art. 3)

Requests for Service – Incoming

- 9) The following questions relate to the number of requests for service *addressed to your State* under the Service Convention.
- a. Please complete the following table to indicate how many *incoming* requests for service the Central Authority(ies) of your State received in each of the past five years under the main channel of transmission. Please also note, if possible for each year, the country(ies) from which your State received the most requests for service.

2003	2004	2005	2006	2007
Number:	Number:	Number:	Number:	Number:
State(s):	State(s):	State(s):	State(s):	State(s):

- b. Of the total amount of requests for service received in 2007, please divide these depending on the method of service that was used by your State and complete the following table with respect to the time that lapsed between the Central Authority(ies) of your State receiving a request for service and the relevant authority of your State forwarding the Certificate of service to the applicant in the requesting State.

For example, if your State executed 12 requests for service using personal service and the entire process took less than two months in each case, please write the number "12" in the relevant box. The total amount of incoming requests for service that your State received in the past year should therefore equal the sum of the figures appearing in the sub-totals line below:

Method of service	Less than 2 months	Between 2 and 4 months	Between 4 and 6 months	Between 6 and 12 months	More than 12 months	Returned un-executed (Art. 13)	Cases currently pending
Formal service (Art. 5(1) a))							
Service by a particular method (Art. 5(1) b)) ⁴							
Informal delivery (Art. 5(2))							
Sub-totals:							

Requests for Service – Outgoing

10) The following questions relate to the number of requests for service *sent by the forwarding authorities of your State* under the Service Convention. These questions are likely to require some consultation with the (main) forwarding authorities in your State that (may) have previously forwarded requests for service:

- a. Please complete the following table to indicate how many *outgoing* requests for service the forwarding authorities of your State have forwarded to Central Authorities of other States Parties in the past five years. If possible, please also note the country(ies) to which your State sent the most requests for service for each year listed below.

2003	2004	2005	2006	2007
Number:	Number:	Number:	Number:	Number:
State(s):	State(s):	State(s):	State(s):	State(s):

- b. Of the total amount of requests for service sent in 2007, please complete the following table with respect to the *time that lapsed* between the forwarding authority of your State sending a request for service and the applicant receiving the Certificate of Service from the requested State. Please also divide these depending on the method of service that was used in the requested State.

For example, if your State is made aware that six requests for service were sent from your State and the entire process took less than two months in each case, please write the number "6" in the relevant box. The total amount of outgoing requests for service that your State is aware were sent in the past year should therefore equal the sum of the figures appearing in the sub-totals line below:

⁴ See Question 28) b. for an explanation as to the meaning of Art. 5(1) b) – please adopt that meaning to fill in the chart above, independently of your response to Question 28) b. (i).

Method of service	Less than 2 months	Between 2 and 4 months	Between 4 and 6 months	Between 6 and 12 months	More than 12 months	Returned un-executed (Art. 13)	Cases currently pending
Formal service (Art. 5(1) a))							
Service by a particular method (Art. 5(1) b)) ⁵							
Informal delivery (Art. 5(2))							
Sub-totals:							

D. General appreciation of the Service Convention

11) Please indicate below how your State rates the general operation of the Service Convention:

Excellent

However, it should be noted that in some cases domestic courts do not complete the certification and in others States send forms without completing essential information of the document.

Sin embargo, cabe señalar que en algunos casos los juzgados nacionales no completan la certificación y en otros, los estados envían formularios sin completar los elementos esenciales del documento.

Good

Satisfactory

Unsatisfactory

If your State considers that the general operation of the Service Convention is good, satisfactory or unsatisfactory, please indicate what particular aspects of the Convention your State considers require improvement or where your State has encountered difficulties. For any areas that require improvement, please also indicate whether your State considers that solutions could be developed in specific *Conclusions and Recommendations* to be adopted by the next Special Commission or by specific comments in a new edition of the *Service Handbook* or if a *Protocol* to the Convention is needed.

E. Case law and reference work

12) The Permanent Bureau invites States Parties to provide copies of any guides, desk instructions or any other practical information that may have been produced for the assistance of their judicial authorities or other authorities when sending or executing requests for service under the Service Convention.

No guide or handbook on the application of the Convention has been prepared.

No se ha confeccionado ninguna guía o manual para la aplicación del Convenio.

⁵ See Question 28) b. for an explanation as to the meaning of Art. 5(1) b) – please adopt that meaning to fill in the chart above, independently of your response to Question 28) b. (i).

- 13) The Permanent Bureau invites States Parties to provide copies of decisions rendered after the publication of the Service Handbook (or from before this time if these have not already been provided to the Permanent Bureau) that apply or relate to the Service Convention. If the decision is in a language other than English or French, a summary into either of these languages would be appreciated.

Court: Commercial Court of Appeals, Division A A(CNCom)(SalaA)

Date: 24 April 2007

Parties: Banco Supervielle S.A. vs. Société Bancaire Privée S.A.

Published in: LA LEY, 2 August 2007, 5 - LA LEY 2007-D, 596

FACTS:

The plaintiff requested an exemption from adding certain documentary evidence to the letters rogatory issued for the purpose of serving a complaint abroad. The first instance court refused the request. The plaintiff took an appeal, which was dismissed by the Appellate Court.

SUMMARY:

The plaintiff's request that the plaintiff be exempted from enclosing with the letters rogatory issued for the purpose of serving a complaint abroad the documentary evidence proffered must be rejected, because such failure would entail a violation of the right of defense at trial, since the defendant would be deprived of the right to determine whether the documents that relate to such defendant are authentic.

The issuance of a letters rogatory for the purpose of serving a complaint in the Swiss Confederation must adjust to the rules laid down by the Hague Convention of 15 November 1965 (Adla, XLVII-B, 1507) on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, which provide that a translation of the purpose of the service into the language of the required authority be enclosed.

Tribunal: Cámara Nacional de Apelaciones en lo Comercial, sala A(CNCom)(SalaA)

Fecha: 24/04/2007

Partes: Banco Supervielle S.A. c. Société Bancaire Privée S.A.

Publicado en: LA LEY 02/08/2007, 5 - LA LEY 2007-D, 596

HECHOS:

La parte actora solicitó la eximición de acompañar cierta prueba documental al exhorto diplomático ordenado a efectos de notificar el traslado de una demanda en el extranjero. El juez de grado rechazó el pedido. Apeló el fallo, la Cámara rechaza el recurso.

SUMARIOS:

Debe rechazarse la petición del actor tendiente a que se lo exima de acompañar al exhorto diplomático ordenado a efectos de notificar el traslado de una demanda al extranjero la prueba documental oportunamente ofrecida, pues tal omisión se muestra susceptible de vulnerar el derecho de defensa en juicio acarreado a la accionada la privación del derecho de pronunciarse sobre la autenticidad de los documentos que se le atribuyen.

El trámite inherente a un exhorto diplomático ordenado a efectos de notificar el traslado de una demanda a la Confederación Suiza debe adecuarse al procedimiento establecido por la Convención de La Haya del 15/11/65 (Adla, XLVII-B, 1507), sobre Notificación de Actos Judiciales en el Extranjero que exige la traducción, del objeto de notificación, en el idioma de la autoridad requerida

14) The Permanent Bureau invites States Parties to forward a list of references of articles or books in connection with the Service Convention that do not already appear on the bibliography tab of the HCCH website or in the Service Handbook.

Boggiano, Antonio, "Derecho Internacional Privado. Teoría General - Derecho Procesal Internacional - Derecho Civil Internacional" - Tomo I, LexisNexis, 2006.

Calderón Vico de Della Savia, Lilia María, "Notificación mediante exhorto internacional", LA LEY 2007-D, 597. Fallo comentado: Cámara Nacional de Apelaciones en lo Comercial, sala A (CNCom)(SalaA) ~ 2007/04/24 ~ Banco Superville S.A. c. Soci  t   Bancarie Priv  e S.A.

Dreyzin de Klor, Adriana - Saracho Cornet, Teresita, "Tr  mites Judiciales Internacionales", Editorial Zabal  a, Buenos Aires, 2005.

Dreyzin de Klor, Adriana - Saracho Cornet, Teresita, "Cooperaci  n. El   ltimo convenio de la conferencia de La Haya aprobado por Argentina", LA LEY 2002-B, 985.

14) The Permanent Bureau invites States Parties to forward a citation for and / or a copy of the domestic legislation which implemented the Service Convention in their territory(ies), as well as any citations for and / or copies of any domestic laws which provide for the service of documents abroad.

See Annexes 1 and 2

Ver Anexos 1 y 2

15) The Permanent Bureau invites States Parties to forward a list of any other bilateral treaties and / or international instruments to which they are a party and that provide rules for the service of documents abroad. In particular, States Parties are invited to identify those treaties that allow for direct judicial communication (see Art. 11 *in fine* of the Service Convention).

Bilateral Treaties

Treaty between the Russian Federation and the Argentine Republic on Cooperation and Legal Assistance in Civil, Commercial, Labor, and Administrative Matters of 20 November 2000. Argentine Law No. 25592 (22 May 2002)

Agreement on Legal Assistance and Recognition and Enforcement of Civil Judgments between the Argentine Republic and the Italian Republic. Rome, Italy, 9 December 1987. Argentine Law No. 23720 (1 July 1990)

Agreement on Legal Cooperation in Civil, Commercial, Labour and Administrative Matters between the Argentine Republic and the Federative Republic of Brazil, Brasilia, 20 August 1991. Argentine Law No. 24108 (1 July 1992)

Multilateral Treaties

- *Inter-American Convention on Letters Rogatory (Panama City, 13 January 1975).*
- *Additional Protocol to the Inter-American Convention on Letters Rogatory (Montevideo, 8 May 1979)*
- *Protocol on Cooperation and Legal Assistance in Civil, Commercial, Labor and Administrative Matters (MERCOSUR/CMC/DEC N   5/92)*
- *Supplementary Agreement to the Protocol on Cooperation and Legal Assistance in Civil, Commercial, Labor and Administrative Matters (MERCOSUR/CMC/DEC N   5/97) (Asuncion, 14 June 1997)*

Bilaterales

Tratado de Cooperación y Asistencia Jurisdiccional en Materia Civil, Comercial, Laboral y Administrativa entre la República Argentina y la Federación de Rusia. 20/11/2000. Ley 25.595 (22/05/2002)

Convención de asistencia judicial y de reconocimiento y ejecución de sentencias en materia civil entre la República Argentina y la República Italiana. Roma, Italia, 09 de Diciembre de 1987. Ley n° 23.720 (01/07/1990)

Acuerdo sobre Cooperación Judicial en materia Civil, Comercial, Laboral y Administrativa entre la República Argentina y la República Federativa del Brasil, Brasilia, 20/08/1991. Ley N° 24.108(01/07/1992)

Multilaterales

- *Convención interamericana sobre exhortos y cartas rogatorias (Ciudad de Panamá, 13 de enero de 1975).*

- *Protocolo adicional a la Convención interamericana sobre exhortos y cartas rogatorias (Montevideo, 8 de mayo de 1979)*

- *Protocolo de Cooperación y Asistencia Jurisdiccional en Materia Civil, Comercial, Laboral y Administrativa (MERCOSUR/CMC/DEC N° 5/92)*

- *Acuerdo Complementario al Protocolo de Cooperación y Asistencia Jurisdiccional en Materia Civil, Laboral y Administrativa (MERCOSUR/CMC/DEC N° 5/97) (Asuncion, 14 June 1997)*

F. Ser vice Handbook

16) In 2006 during the Special Commission on General Affairs and Policy of the HCCH (now referred to as the "Council on General Affairs and Policy"), the Permanent Bureau distributed free copies of the Service Handbook to the heads of all delegations in attendance. Subsequently, the Permanent Bureau also sent free copies of the Service Handbook to the National Organs of Member States of the HCCH (in most instances for them to be passed on to the Central Authorities designated by their States), and the Central Authorities of non-Member Contracting States to the Service Convention. Additional copies of the Service Handbook may be ordered via the "Service Section" of the HCCH website (< www.hcch.net >). Do(es) the Central Authority(ies) of your State have copies of the Service Handbook at their / its disposal?

NO – why not?

YES

a. Do(es) the Central Authority(ies) of your State regularly consult the Service Handbook when confronted with issues regarding the operation of the Service Convention?

YES

NO – why not?

b. Do(es) the Central Authority(ies) of your State find the Service Handbook to be:

Very useful

Useful

Not useful

Please indicate what particular aspects of the Service Handbook could be improved:

- 17) Do practitioners (attorneys, process servers, etc.) in your State also consult and rely on the Service Handbook?
- YES
- NO
- No information available for possible comment
- 18) Has the Service Handbook been quoted or referred to in judicial proceedings and / or court decisions in your State (please provide precise references and copies of the relevant decisions)? If a decision is in a language other than English or French, a summary into either of these languages would be appreciated.
- YES – references / comments:
- NO

PART TWO – SUBSTANTIVE ISSUES

I. Non-mandatory but exclusive character of the Service Convention

19) In Conclusion and Recommendation No 73, the 2003 Special Commission unanimously confirmed the view that the Service Convention is non-mandatory but exclusive (see also Service Handbook, paras 24-45).

a. Has the non-mandatory but exclusive character of the Service Convention led to any questions or difficulties in your State since the 2003 Special Commission?

NO

YES – please explain what these questions or difficulties were and how they were addressed and solved:

b. Have any judicial proceeding and / or court decisions addressed this particular matter of the non-mandatory but exclusive character of the Service Convention?

NO

YES – please explain how the court(s) addressed and / or decided the matter (please provide precise references and copies of the relevant decisions; if a decision is in a language other than English or French, a summary into either of these languages would be appreciated):

II. Scope of the Service Convention

A. Interpretation of the phrase “civil or commercial matters”

20) In Conclusions and Recommendations Nos 69 to 72, the 2003 Special Commission urged for a broad and liberal interpretation of the phrase “civil or commercial matters” (Art. 1) and reaffirmed the Conclusions adopted at the 1989 Special Commission regarding the scope of the Service Convention.

a. Has the interpretation of the phrase “civil or commercial matters” given rise to specific issues in your State (either as a requested or a requesting State) since 2003?

YES

(i) What were they and how have they been solved?

(ii) Have the authorities of your State followed the Conclusions and Recommendations of the 2003 Special Commission?

YES

NO – why not?

(iii) Please provide details and / or a copy of any relevant decision(s) (if these decisions are in a language other than English or French, a brief summary into either of these languages would be appreciated):

NO

- b. Has (any of) the Central Authority(ies) of your State been in direct contact with an authority of another Contracting State to discuss the interpretation of this phrase (so as to decide whether or not to execute a request for service)?

YES – please briefly explain the circumstances and modalities of any exchange:

NO – please explain why there was no communication on this issue:

It has not been necessary, given that the phrase in question has not given rise to any discrepancies.

No ha sido necesario, ya que la frase indicada no ha dado lugar a discrepancias.

- 21) Regardless of whether a matter has actually arisen, please indicate (by placing a “YES” or a “NO” in the relevant box) which of the following types of matters the authorities of your State consider as falling within the scope of the phrase “civil or commercial matters”:

YES] Bankruptcy or insolvency in general

NO] Reorganisation under bankruptcy laws

YES] Insurance

YES] Social security

YES] Employment

YES] Taxation

NO] Anti-trust and competition

YES] Consumer protection

NO] Regulation and oversight of financial markets and stock exchange (e.g., in matters possibly involving insider trading)

NO] Proceeds of crime

YES] Other matters (please specify): *Collection of money, damages, financial questions related to family matters (except child support payments), among others.*

Cobro de \$, daños y perjuicios, cuestiones patrimoniales de familia (salvo alimentos), entre otros

- 22) *This question is addressed to States that are also States Parties to the Evidence Convention:* Does your State interpret the expression “civil or commercial matters” in the same way under both the Service Convention and the Evidence Convention (see also Questions 17) and 18) in the Evidence Questionnaire, Prel. Doc. No 1 of May 2008 for the attention of the Special Commission on the practical operation of the Hague Evidence, Service, Apostille and Access to Justice Conventions)?

YES

NO – please explain the difference(s):

B. Interpretation of “judicial and extrajudicial documents”

- 23) The Service Convention applies to both judicial and extrajudicial documents (Art. 1(1) – see paras 65 to 70 of the Service Handbook).

- a. Is the concept of extrajudicial documents, which may have to be served on an addressee, known in the domestic law of your State?

NO

YES

- (i) What are the most important examples of extrajudicial documents generated in your State and which, under the domestic law of your State, may have to be served (e.g., consents for adoption, notarial documents)?

Notice of dates of mediation hearings.

Notificación de fechas de audiencias de mediación

- (ii) Please explain in what circumstances these extrajudicial documents may have to be served abroad:

--

- (iii) Who may serve these extrajudicial documents? Please specify in particular whether or not private persons may serve extrajudicial documents (see para. 70 of the Service Handbook).

Mediadores. Solo pueden notificar personas u organismos con funciones jurisdiccionales.

Mediators. Only individuals or bodies with jurisdictional functions.

- (iv) How many extrajudicial documents has your State, as a requesting State, forwarded in 2007 to another State Party for service?

0

1-10

11-20

more than 20

- b. In 2007, how many extrajudicial documents has(have) the Central Authority(ies) or other relevant authorities and officials of your State received under the Service Convention, as the requested State, for service in your State?

0

1-10

11-20

more than 20

- (i) Please specify from which States these requests for service of extrajudicial documents emanated:

Italy

- (ii) Were all these requests executed?

YES

NO – why not?

C. Service on States and State Officials

- 24) Have the forwarding authorities of your State, as a State of origin, used any channel(s) of transmission available under the Service Convention when service has had to be effected upon a foreign State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for a State or a State-owned company (see also Question 38)?

YES – please indicate:

- a. which channel(s) of transmission under the Service Convention has(ve) most commonly been used in this context:

- b. those State(s), or agents representing such State(s), for which / whom such requests for service have been forwarded:
- c. whether service was eventually effected, and if so, by what method:
- d. any difficulties that were encountered in any of these cases:

NO – if applicable, please indicate the method(s) of transmission that was (were) used, not under the Service Convention, to transmit requests for service upon a foreign State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for a State or a State-owned company, whether or not service was eventually effected, and, if so, by what method:

They are usually transmitted through diplomatic channels (Vienna Convention on Diplomatic Relations. Art. 41.1 or 2)

Usualmente son notificados por la vía diplomática (Convención de Viena sobre relaciones diplomáticas. Art. 41.1 o 2)

25) Has(have) the Central Authority(ies) or other authorities and officials in your State, as a State of destination, received requests for service upon your State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for your State or a State-owned company?

YES – please indicate:

- a. which channel(s) of transmission under the Service Convention has(ve) most commonly been used in this context?

Although both the diplomatic channel and the channels established by the Convention may be used, in these cases service is usually effected through the latter.

Si bien se pueden usar tanto la vía diplomática como el convenio, en estos casos las notificaciones suelen realizarse por el convenio.

- b. from which State(s), or which agents representing that State, such requests for service were received:

France, United Kingdom, United States of America, Italy, Switzerland

Francia, Reino Unido, Estados Unidos de América, Italia, Suiza

- c. if service was eventually effected after such requests for service were received, and if so, by what method:

Through the courts, as provided by Argentine domestic procedural rules.

Por la vía judicial establecida en la normativa procesal interna argentina.

- d. any difficulties that were encountered in any of these cases:

The form is not addressed to the Head of State or the Argentine State, but rather to the official directly.

El formulario está dirigido no al Jefe de estado ni al estado argentino sino directamente al funcionario.

NO – if applicable, please indicate the method(s) of transmission that was(were) used, not under the Service Convention, by other States to transmit requests for service upon your State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for your

State or a State-owned company, whether or not service was eventually effected, and, if so, by what method:

III. The main channel of transmission

A. Forwarding Authority (Art. 3)

- 26) In Conclusion and Recommendation No 49, the 2003 Special Commission advised that in case of doubt as to the competence of the forwarding authority, rather than rejecting the request for service, the authorities in the requested State should seek to confirm that competence by either consulting the HCCH website or by making informal enquiries, including by way of e-mail.

Has your State, as a requested State, experienced any difficulties in determining whether a specific forwarding authority was in fact a legitimate forwarding authority under the law of the requesting State?

NO

YES – please specify whether or not the authorities of your State followed Conclusion and Recommendation No 49 of the 2003 Special Commission:

YES

NO – why not?

- 27) The Service Convention does not specify how requests for service should be sent by the forwarding authority of the requesting State to the relevant Central Authority of the requested State.

- a. Do the forwarding authorities of your State use the official postal mail service of your State to send most of their requests for service abroad?

YES

NO

- b. Do the forwarding authorities of your State also use *private* courier services to send requests for service abroad?

YES – please explain in what circumstances they use private courier services:

Private courier services are used in case of urgency, since that they are faster.

El correo privado es utilizado cuando debe realizarse una notificación de un modo urgente, ya que sus tiempos son mas breves.

NO – please explain why:

- c. Do(es) the Central Authority(ies) of your State, as a requested State, accept requests for service when they are sent via a private courier service?

YES

NO – why not?

See also Question 32) regarding the use of modern technologies, in particular sub-questions b. and c.

B. Methods of service (Art. 5)

- 28) Please complete:

a. Formal service (Art. 5(1) a))

- (i) Please describe the methods of service prescribed by the domestic law of your State to effect formal service of documents upon persons who are within the territory of your State (Art. 5(1) a)):

Through the courts.

Judicial

- (ii) Please indicate the method(s) generally used by your State when service is requested under Article 5(1) a) and no preference has been indicated as to the manner in which service should be effected (e.g., personal service, by post, etc. See also below Question 28) c. (ii) and (iii)). Please also indicate your State's reasons behind any such default choice:

Through the courts.

Judicial

b. Service by a particular method (Art. 5(1) b))

Pursuant to Article 5(1) b), service may be effected by a particular method requested by the applicant unless such a method is incompatible with the law

of the requested State (requests for the use of a particular method are fairly rare in practice, see para. 132 of the Service Handbook). The purpose of this provision is to enable requests for a particular method of service *contemplated by the law of the requesting State* to be applied in the requested State so that the validity requirements for service in the requesting State are met. However, it appears that some forwarding authorities are systematically requesting that their request for service be executed under Article 5(1) b) even in circumstances where they intend to have service effected by a method that is recognised under the laws of the *requested* State (such as personal service). The Permanent Bureau believes that this practice is erroneous and that such a request should instead be made and specified under Article 5(1) a).

- (i) Does your State agree with the position of the Permanent Bureau that a request for a method of service that is recognised by the law of the requested State (such as personal service) may be specified and effected under Article 5(1) a) and that Article 5(1) b) serves a separate purpose?

YES

NO – please explain why:

- (ii) If relevant, please describe the particular methods of service which your forwarding authorities have requested other States to use under Article 5(1) b) and whether these particular methods have in fact been used to effect service:

These methods have not been used.

No se ha utilizado.

- (iii) If relevant, please describe the particular methods of service by which your State has been requested to effect service under Article 5(1) b) and whether these particular methods have in fact been used to effect service:

Service by fax has been requested, though not effected, because the Argentine Republic only allows service through the courts.

Se ha solicitado la notificación vía fax, pero no se ha llevado a cabo la notificación, dado que la República Argentina solo admite la notificación por vía judicial.

c. Informal delivery (Art. 5(2))

- (i) Does the law of your State provide for *informal delivery* of documents (understood to be a method of service where the documents to be served are delivered to an addressee who accepts them voluntarily)?

YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):

NO

- (ii) As a matter of practice, does your State systematically attempt service of process by informal delivery if and when no particular method of service has been requested under Article 5(1) *a*) or *b*)?

YES

NO

- (iii) As a matter of practice, does your State systematically attempt service of documents via a *formal* method of service when informal delivery has proven to be unsuccessful?

YES – please specify if your State imposes any additional requirements before such formal service will be attempted (*e.g.*, a translation):

NO

Informal delivery is not allowed.

No se admite la simple entrega.

C. Translation requirements (Art. 5(3))

- 29) Please indicate if your State, as a requested State, imposes any language or translation requirements for documents to be served in your State under Article 5(1) (see Conclusions and Recommendations Nos 67 and 68 of the 2003 Special Commission):

NO requirements

YES – please indicate what these requirements are, in each of the following set of circumstances:

Translation of the documents attached to the form.

Traducción de la documentación adjunta al formulario.

- a. Formal service (Art. 5(1) *a*):

In circumstances where the / a Central Authority of your State, as a requested State, is in a position to assess the content and nature of the request for service based on the “Summary” section of the Model Form and where there is evidence that the addressee is fluent in the language in which the document to be served is written. Would your State then still insist, under Article 5(1) *a*), that the document be translated into another language (*i.e.*, one of the official languages of your State)?

YES – please indicate why:

Because otherwise the request could not be processed.

Porque sino es de imposible cumplimiento la medida.

NO

- b. Particular method requested by the applicant (Art. 5(1) *b*):

In circumstances where the / a Central Authority of your State, as a requested State, is in a position to assess the content and nature of the

request for service based on the "Summary" section of the Model Form and where there is evidence that the addressee is fluent in the language in which the document to be served is written. Would your State then still insist, under Article 5(1) *b*) that the document be translated into another language (*i.e.*, one of the official languages of your State)?

YES – please indicate why:

Same as (a).

Idem a).

NO

c. Informal delivery (Art. 5(2)):

Our legal system does not allow informal delivery as a means of service.

Nuestro sistema legal no admite la simple entrega como modo de notificación.

NO translation requirement for informal delivery

30) The Service Convention does not state how any translation of the documents to be served under Article 5(1) should be prepared or who should prepare it. According to your State, which law determines these issues?

The domestic law of the requesting State

The domestic law of the requested State

Both laws

Please specify / comment if needed:

D. Costs (Art. 12)

31) Please indicate the costs incurred (if any) for each of the following methods of service under the law of your State (as a requested State) in accordance with Articles 5 and 12:

a. Formal service (Art. 5(1) *a*):

(i) Who bears these costs?

Your State (requested State)

The applicant / forwarding authority / requesting State – please explain whether or not service will only be effected in your State, as the requested State, only once any costs have been reimbursed. Also, please explain the modalities of any reimbursement (to whom the costs are reimbursed (relevant Competent Authority of your State, judicial officer, other person, etc.), and how the reimbursement is effected (electronic bank transfers, cheques, etc.))

b. Particular method requested by the applicant (Art. 5(1) *b*):

(i) Who bears these costs?

Your State (requested State)

The applicant / forwarding authority / requesting State – please explain whether or not service will only be effected in your State, as the requested State, only once any costs have been reimbursed. Also, please explain the modalities of any reimbursement (to whom the costs are reimbursed (relevant Competent Authority of your State, judicial officer, other person, etc.), and how the reimbursement is effected (electronic bank transfers, cheques, etc.))

No such cases have occurred. However, Argentina understands that the applicant will bear the costs if a particular method is requested or when the intervention of a judicial officer or other competent person from the required state is called for.

No hemos tenido casos. Sin embargo nuestro país entiende que el requirente cargará con los costos si solicitara una forma particular de tramitación de la solicitud requerida o bien cuando se refiera a la intervención de un funcionario judicial o de una persona competente del estado requerido.

- c. Informal delivery (Art. 5(2)):

Informal delivery is not permitted by our legal system.

Nuestro sistema legal no admite la simple entrega como modo de notificación.

- (i) Who bears these costs?

Your State (requested State)

The applicant / forwarding authority / requesting State – please explain whether or not service will only be effected in your State, as the requested State, only once any costs have been reimbursed. Also, please explain the modalities of any reimbursement (to whom the costs are reimbursed (relevant Competent Authority of your State, judicial officer, other person, etc.), and how the reimbursement is effected (electronic bank transfers, cheques, etc.))

E. Modern Technologies

32) In Conclusions and Recommendations Nos 60 to 62, the 2003 Special Commission noted that the Service Convention does not on its terms prevent or prescribe the use of modern technologies to assist in further improving the operation of the Convention and that States Parties should explore all ways in which they can use modern technology. In Conclusion and Recommendation No 63, a variety of steps were identified for the exploration and use of modern technologies: in communications between a requesting party and a forwarding authority, in communications between a forwarding authority and a Central Authority of a requested State, and in the retransmission of the certificate of execution by the Central Authority or the designated authority (Art. 6). In light of these Conclusions, and in the context of the main channel of transmission, please comment on the following (see also below Part Three, Section II. C.):

- a. Does the law of your State, as a requesting State, allow for documents to be forwarded *from a requesting party to a forwarding authority* by fax, e-mail or a similar technology?

YES – please specify what technologies are used in practice (*e.g.*, (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (*e.g.*, obtaining the consent of all / some of the authorities or parties involved, etc.):

NO – please explain / specify:

Because the only kind of transmission accepted is through the courts.

Porque la única vía aceptada es la judicial

- b. Does the law of your State, as a requesting State, allow for documents to be forwarded *from a forwarding authority to a Central Authority of a requested State* by fax, e-mail or a similar technology?

YES – please specify what technologies are used in practice (*e.g.*, (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (*e.g.*, obtaining the consent of all / some of the authorities

or parties involved, confirming any requirements and / or capabilities of the Central Authority of the requested State in this regard, etc.).

NO – please explain / specify:

- c. Does the law of your State, as a requested State, allow for documents to be received by your (one of your) Central Authority(ies) from a forwarding authority abroad by fax, e-mail or a similar technology?

YES – please specify what technologies are used in practice (e.g., (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (e.g., obtaining the consent of all / some of the authorities or parties involved, etc., before being able to accept such documents for service).

NO – please explain / specify:

Only original documents are acceptable for service.

La documentación debe ser original para que la notificación pueda llevarse a cabo.

- d. Does the law of your State, as a requested State, allow for the certificate of execution to be transmitted from the relevant Central Authority of your State or the authority designated under Article 6 to the applicant by fax, e-mail or a similar technology?

YES – please specify what technologies are used in practice (e.g., (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (e.g., obtaining the consent of all / some of the authorities or parties involved, etc., before being able to transmit the certificate of execution):

NO – please explain / specify:

Same as c.

Idem c).

- e. Does the law of your State, as a requesting State, allow for the certificate of execution to be received from the requested State by fax, e-mail or a similar technology?

YES – please specify what modern technologies are used in practice (e.g., (secured or unsecured) transmission via fax or e-mail) and any requirements of the law of your State (e.g., obtaining the consent of all / some of the authorities or parties involved, etc., before being able to receive the certificate of execution):

NO – please explain / specify:

Same as c.

Idem c).

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

A. Translation requirements

- 33) In Conclusion and Recommendation No 65, the 2003 Special Commission recognised that whilst no translation is required under the Service Convention for documents transmitted under the alternative channels of transmission, in isolated cases,

translations are sometimes required in these circumstances by the domestic law of States. Does the domestic law of your State impose translation requirements on documents that are transmitted for service through an alternative channel of transmission?

The Argentine Republic understands that Article 8 applies exclusively to cases in which a national is to be served.

La República Argentina entiende que el Artículo 8 se aplica exclusivamente en aquellos casos en que debe ser notificado un nacional.

NO

YES – please provide to the Permanent Bureau all relevant information pertaining to these internal legal requirements and to which alternative channel they relate. If this information is not in either French or English then a translation into one of these languages would be appreciated:

B. Model Form

34) The Fourteenth Session of the HCCH (held in 1980) recommended that the part of the Model Form that contains the “Summary”, accompanied by the “Warning”, not only be used under the main channel of transmission but also under the alternative channels of transmission of the Service Convention (the Recommendation and the accompanying Report established by Gustaf Möller are available on the “Service Section” of the HCCH website (< www.hcch.net >). Please indicate whether the forwarding authorities in your State systematically send the “Summary” accompanied by the “Warning” when requests for service are sent abroad using an alternative channel of transmission.

YES

NO – why not?

No alternative channel of transmission is used.

No se utiliza la vía alternativa.

35) The Permanent Bureau approves and encourages the practice of certain States to return the Certificate to the applicant even if transmission of the request for service occurred via an alternative channel of transmission provided for in Article 10 *b*) and *c*) (see para. 119 of the Service Handbook). This practice may even be extended to Article 10 *a*), depending on the postal mail service used in the State of destination. Is it a practice within your State, as a State of destination, to use the “Certificate” part of the Model Form and to transmit this to the applicant in the State of origin when the transmission of the request for service occurred under one of the alternative channels of transmission contained within Article 10 *a*), *b*) and *c*)?

The Argentine Republic has opposed using the channels of transmission provided for in Article 10.

La República Argentina se opuso a la utilización de los métodos de transmisión previstos por el Artículo 10.

YES, the Certificate is transmitted to the applicant when the transmission of the request for service occurred under Article 10 *a*) – please provide further details:

YES, the Certificate is transmitted to the applicant when the transmission of the request for service occurred under Article 10 *b*) and / or *c*) – please provide further details, *i.e.*, what category of or which judicial officers, officials or competent persons exercise this practice:

NO

C. Diplomatic and Consular Channels

Article 8 – Direct Channels

36) Have the diplomatic and consular agents of your State been used to directly effect service of judicial documents upon persons abroad in accordance with Article 8(1) in the past five years?

Argentina understands that service of process via consular channels has been devised to serve documents upon nationals exclusively. However, for this kind of service, Consular Regulations are relied upon instead of the Convention.

La Argentina entiende que la notificación o traslado por vía consular ha sido prevista para notificar exclusivamente a nacionales. Sin embargo, en la práctica no es utilizado el Convenio sino el Reglamento Consular para realizar este tipo de notificaciones.

NO – why not?

Yes – please specify:

a. on how many occasions your diplomatic and consular agents abroad have been used to effect service in accordance with Article 8(1):

More than 20.

Mas de 20.

b. in which States these diplomatic and consular agents were based:

United States of America, Spain, Italy, France, Brazil, Chile, Peru, Mexico, Uruguay, among others.

Estados Unidos, España, Italia, Francia, Brasil, Chile, Perú, Mexico, Uruguay, entre otros.

c. the average time taken between the transmission of the documents for service and the execution of service:

We have no information in that respect.

No poseemos datos al respecto.

d. whether your State considers this channel to be efficient and effective:

YES

The national failed to accept service on account of an alleged change of nationality, for which reason the courts were resorted to.

El nacional no aceptó la notificación, alegando un cambio de nacionalidad, por lo que finalmente se utilizó la vía judicial.

NO – why not?

e. whether there have been situations whereby the diplomatic and consular agents of your State have attempted to directly effect service of judicial documents upon persons abroad but were unable to as a result of the addressee not voluntarily accepting delivery of the document:

YES – please indicate how this matter was dealt with:

NO

- f. whether the transmission of judicial documents to the diplomatic agents or consular officers of your State posted abroad, or the actual service of these judicial documents upon an addressee, have been executed by using electronic means (*e.g.*, by fax or e-mail):

YES

NO – why not?

These means of service of documents are not permitted in our legal system.

Estos medios de notificación no están admitidos en nuestro sistema jurídico.

Article 9 – Indirect Channels

- 37) In the past five years, has your State used consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which were designated by the latter for this purpose in accordance with Article 9(1)?

NO – why not?

Transmission through central Authorities is used.

Se utiliza la transmisión a través de las Autoridades centrales.

YES – please specify:

- a. on how many occasions this channel has been used in the past five years:
- b. in which States these diplomatic and consular agents were based:
- c. the average time taken between the first transmission of the documents to be served and the execution of service:
- d. whether your State considers this channel to be efficient and effective?
 - YES
 - NO – why not?

- 38) In the past, have there been “exceptional circumstances” in accordance with Article 9(2) that required your State to use diplomatic channels to forward documents to another State Party for the purpose of service?

NO

YES – please describe what these exceptional circumstances were that warranted the use of diplomatic channels to forward documents for the purpose of service in another State Party. In particular, did any exceptional circumstances relate to the service of a claim on a foreign State, head of State, a government entity, member of government, consular or diplomatic agent or any other official acting for a State or a State-owned company (see para. 193 of the Service Handbook):

- 39) Has the transmissions of documents to either diplomatic agents or consular officers of your State located abroad for the purpose of service in the State in which they are based, or the actual service on these documents upon the addressee, occurred via electronic means (*e.g.*, by fax or e-mail)?

YES

NO – why not?

Our legal system does not allow these means of service.

Estos medios de notificación no están admitidos en nuestro sistema jurídico.

D. Article 10 a) – Postal Channel

40) If your State has opposed “the freedom to send judicial documents, by postal channels, directly to persons abroad” (Art. 10 a)), please indicate:

a. the reason(s) that motivated this opposition:

Because of the right to defense at trial, infringed by direct communication, which was even carried out in a foreign language.

Por el derecho a la debida defensa en juicio, que se veía vulnerado por la notificación directa, que incluso se realizaba en idioma extranjero.

b. whether your State uses this channel of transmission to send judicial documents abroad for service by mail despite having filed an opposition under Article 10 a) (see paras 206-210 of the Service Handbook):

NO

YES – please explain:

Please go to Question 44).

41) Has the interpretation and application of Article 10 a) given rise to any difficulties in your State?

YES – please specify / comment:

NO

42) If possible, please comment upon how frequently judicial documents are sent for service upon persons abroad, by parties in your State, via postal channels:

43) In Conclusion and Recommendation No 56, the 2003 Special Commission concluded that for the purposes of Article 10 a), the use of a private courier was the equivalent of using the postal channel under the Service Convention.

a. Does the law of your State, as a State of origin, allow for private courier services to be used under Article 10 a), *i.e.*, are judicial documents sent from your State for service abroad via private courier services:

YES

NO – why not?

b. Does the law of your State, as a State of destination, allow for private courier services to be used under Article 10 a), *i.e.*, are judicial documents received from abroad and served within your State by private courier services:

YES

NO – why not?

E. Article 10 b) – Judicial Officers, Officials or Other Competent Persons

- 44) If your State has opposed “the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination” (Art. 10 *b*)), please indicate the reason(s) that motivated this opposition:

Because direct communication between judges is not provided for (communication must take place through letters rogatory)

Porque no está prevista la comunicación directa entre jueces (debe realizarse por exhortos)

If your State does hold an opposition, please go to Question 46).

- 45) Provided the application of Article 10 *b*) has not been objected to by your State and that the law of your State presumably allows for service to be effected by “judicial officers, officials or other competent persons”, please answer the following:

- a. Which of the following would be considered to be “judicial officers, officials or other competent persons” under the law of your State (please tick all relevant boxes)? Please also note whether these categories differ depending on whether your State is a State of origin or a State of destination:

- Attorneys or solicitors
- Bailiffs
- Huissiers*
- Process servers
- Court officials
- Notaries
- Officials of the executive branch
- Other – please specify

- b. How does this channel of transmission operate in practice – in particular, do (any of) the judicial officers, officials or other competent persons mentioned above send (or receive) the judicial documents *directly* to (or from) their counterparts abroad, or do they have to use some other channel? Please also indicate whether these channels differ depending on whether your State is a State of origin or a State of destination.

- c. Are there any costs associated with the use of this alternative channel of transmission in your State, either in terms of sending or receiving judicial documents?

- d. How frequently is this channel of transmission used in your State (either as a State of origin or as a State of destination)?

- e. May any transmission between the judicial officers, officials or other competent persons be done via electronic means (*e.g.*, by fax or e-mail)?

- YES
- NO – why not?

F. Article 10 *c*) – Interested Persons

- 46) If your State has opposed “the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through judicial officers, officials or other competent persons of the State of destination” (Art. 10 *c*)), please indicate the reason(s) that motivated this opposition:

If your State does hold an opposition, please go to Question 48).

- 47) Provided the application of Article 10 c) has not been objected to by your State, please answer the following:
- a. Which of the following would be considered to be “any person interested in a judicial proceeding” under the law of your State (please tick all relevant boxes):
 - Attorneys or solicitors
 - Bailiffs
 - Huissiers*
 - Process servers
 - Court officials
 - Notaries
 - Officials of the executive branch
 - Other – please specify
 - b. How does this channel of transmission operate in practice – in particular is any person interested in a judicial proceedings able to send the judicial documents *directly* to the judicial officers, officials or other competent persons of the State of destination or does another channel have to be used?
 - c. Are there any costs associated with the use of this channel of transmission in your State, either in terms of sending or receiving judicial documents?
 - d. How frequently is this channel of transmission used in your State (either as a State of origin or as a State of destination)?
 - e. May any transmission between a person interested in a judicial proceeding and the judicial officer, official or other competent person be done via electronic means (*e.g.*, by fax or e-mail):
 - YES
 - NO – why not?

V. Final refusal to execute the request (Art. 13)

- 48) According to Article 13 of the Service Convention a requested State may refuse to execute a request for service when this would infringe the “sovereignty or security” of the requested State.
- a. In the past five years, has your State, as a requested State, rejected the execution of any request for service under Article 13?
 - YES – please specify the grounds upon which your State rejected the execution. Please specify whether there is case law in your State that relates to this issue:
 - NO

- b. In the past five years, is your State aware of whether a(ny) request(s) for service forwarded by your State has(have) been refused by a requested State under Article 13?
- YES – please specify the precise grounds upon which the(se) request(s) for service were rejected:
- NO

VI. Protection of the interests of the Plaintiff and Defendant (Arts 15 and 16)

- 49) When a writ of summons or an equivalent document has been transmitted abroad for the purpose of service under the Service Convention, and the defendant has not appeared, Article 15(1) requires States not to give judgment unless certain requirements have been met. Nonetheless, and subject to States' declarations on this matter, a judge may give judgment if the conditions specified in Article 15(2) are fulfilled. One of these conditions is Article 15(2) c) which states that "no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed" [emphasis added]. Please comment on the interpretation in your State of the expression "no certificate of any kind". In particular, would your State, as a requesting State, consider that the receipt of a certificate that stated that *no service* has occurred could nevertheless trigger the application of Article 15(2)?
- YES, the receipt of a certificate that states that no service has occurred may trigger the application of Article 15(2) (if all the other conditions are fulfilled).
- NO, the receipt of a certificate that states that no service has occurred may not trigger the application of Article 15(2) – please explain why:
- Because the right to defense provided for in our legal system would be infringed.*
- Porque se vería vulnerado el derecho de defensa consagrado por nuestro ordenamiento jurídico.*
- 50) If a requesting State has made a declaration in accordance with Article 15(2) and considers that all conditions of Article 15(2) have been fulfilled and accordingly enters a default judgment, would your State, as a requested State, recognise and enforce the resulting judgment in these circumstances (assuming that all other conditions for the recognition and enforcement of the judgment are fulfilled)?
- YES
- NO – please indicate the grounds upon which your State would refuse to enforce a judgment in these circumstances:
- 51) If your State has not made a declaration under Article 15(2), please explain:
- a. why your State has not made such a declaration:
- b. whether or not your State is assessing the possibility of making such a declaration:
- 52) If your State has *not* made a declaration under Article 15(2), what actions would a judge in your State take (as a requesting State) if your State has not received a certificate of service and the defendant has not appeared? For example, would the

law of your State enable a judge to enter a default judgment, despite the absence of a declaration under Article 15(2)? Upon what grounds would such a judgment be made? If there were some evidence that service had actually been effected, would this change the options that may be available to a judge?

Not applicable (my State made a declaration under Art. 15(2))

53) If your State has not made a declaration under Article 16(3), please explain:

- a. why your State has not made a declaration:
- b. whether or not your State is assessing the possibility of making a declaration:

VII. Date of service

54) The Service Convention does not include a provision that determines the date of service (*i.e.*, the precise moment when the documents have actually been or are deemed to have been served). As a result, it is for the domestic law of the State(s) involved to determine the date of service.

- a. How is the date of service of documents determined in your State:
 - (i) in relation with the execution of a request for service forwarded under the main channel of transmission (please also specify whether your State relies on the date mentioned under point 1 of the Certificate to determine the actual date of service)?

The date of execution of service by the service agent is the date on which service takes place.

La fecha de cumplimiento de la diligencia por el agente notificador es la fecha en la cual se produce la notificación.
 - (ii) when one of the alternative channels of transmission has been used?

The date when the person appears at the consulate and signs the record through which notification takes place or the moment when the notice is received, if the documents are mailed, due to reasons of distance or impossibility to go to the consulate.

La fecha en que la persona se constituye en el consulado y firma el acta por la cual se notifica o el momento en que es recibida la correspondencia, cuando la documentación es enviada por correo postal, por razones de distancia o imposibilidad de trasladarse al consulado.
- b. When the law of your State requires that documents be served within a specific period, does the law of your State also provide effective means to protect the interests of the applicant when the documents have to be served abroad and are thus subject to the effective operation of authorities or professionals abroad (*e.g.*, does the law of your State provide for extended periods of service or for fictitious dates of service based on the date when the documents are sent or ready to be sent abroad, etc.; see Conclusion and Recommendation No 75 of the 2003 Special Commission)?

YES – please specify:

NO

- c. Has the absence of an explicit rule on the date of service in the Convention caused any practical difficulties in your State?

YES – please specify:

Due to the delays it involves

Por las demoras que acarrea

NO

PART THREE – OTHER OPERATIONAL ISSUES

I. Model Form annexed to the Service Convention

A. Fillable PDF versions of the Model Form

- 55) The Permanent Bureau has made the Model Form annexed to the Convention available as a fillable PDF document on the HCCH website. This fillable version of the Model Form is currently available in English, French and in two trilingual versions (English / French / Ukrainian and English / French / Russian). These fillable forms have proven to be very useful. The Permanent Bureau would be pleased to make available other trilingual Model Forms in the same format (English / French / one of the official languages of a State Party). States that are interested in producing a Model Form with (one of) their official language(s) available as fillable PDF documents are invited to send to the Permanent Bureau a document in MS-Word with the text of the Model Form in the relevant official language. The Permanent Bureau will then create the fillable version and upload it onto the HCCH website.

Please feel free to comment further on the above:

The Argentine Republic proposes that the trilingual English/French/Spanish form be uploaded. The English-Spanish and French-Spanish versions of the Form are attached hereto as Annex 3.

La República Argentina propone la carga del formulario trilingüe Inglés, Francés, Español. Se agregan como Anexo 3 las versiones Inglés-Español y Francés-Español del Formulario.

B. Request Form (Art. 3)

- 56) The first box on the Model Form asks for the “[i]dentity and address of the *applicant*” [emphasis added]. The Permanent Bureau’s interpretation of the word “applicant” is that it refers to the *forwarding authority* referred to in Article 3(1) (see Service Handbook, paras 112-114). Does your State agree with this interpretation?

YES

NO – what then is the interpretation of this word in your State?

The plaintiff in the proceedings

Counsel representing the plaintiff (if different from the forwarding authority)

The court where the proceeding is taking place in the requesting State

Other – please specify:

- 57) In Conclusion and Recommendation No 48, the 2003 Special Commission unanimously approved the suggestion that the information regarding the forwarding authorities and their competences be included in the Model Form. Does your State systematically follow this Conclusion and Recommendation when sending a request for service?

YES

NO – why not?

C. Certificate (Art. 6)

58) Article 6(4) indicates that the Certificate shall be “forwarded directly to the *applicant*” [emphasis added]. The Permanent Bureau’s interpretation of the word “applicant” is again that it refers to the *forwarding authority* referred to in Article 3(1). Does your State agree with this interpretation?

YES

However, in many cases, the certification is forwarded to the person appearing in the form as applicant.

Sin embargo, en muchos casos se remite la certificación a quien figure en el formulario como requirente.

NO – to whom then do(es) the Central Authority(ies) of your State or the authority designated for this purpose forward the Certificate:

The plaintiff in the proceedings

Counsel representing the plaintiff (if different from the forwarding authority)

The court where the proceedings are taking place in the requesting State

The nearest Embassy representing the requesting State

Other – please specify:

II. E-service

A. In strictly domestic situations

59) Does the law of your State, in strictly domestic situations, allow for documents to be served by fax, e-mail, SMS, the posting of a message on a website, or by a similar modern technology?

NO – are there plans to introduce service by using such technologies?

YES – please specify:

We are studying the possibility of incorporating new technologies into the service system.

Se está estudiando la posibilidad de incorporar las nuevas tecnologías al sistema de notificaciones.

NO

YES – please specify:

a. the legal framework and practical circumstances in which such technologies may be used (please describe for each if necessary):

b. whether a secured transmission has to be used for any / each of these technologies, and if so, which kind of secured transmission is used in practice:

c. if and how service upon the addressee is acknowledged or proven in such circumstances:

B. In cross-border situations outside of the Service Convention

60) Have the relevant authorities of your State served documents by fax, e-mail, SMS, the posting of a message on a website or by a similar modern technology in cross-border situations that did not fall within the scope of the Service Convention?

- YES – please specify:
- a. the legal framework and practical circumstances in which this occurred – in particular, whether the terms of a regional or bilateral instrument provided for or otherwise allowed this (please describe for each if necessary):
 - b. whether a secured transmission has to be used for any / each of these technologies, and if so, which kind of secured transmission is used in practice:
 - c. if and how service upon the addressee was acknowledged or proven in such circumstances:

NO

C. E-service and the main channel of transmission under the Service Convention

61) Has the / a Central Authority of your State received requests for service that expressly asked for documents to be served by fax, e-mail, SMS, the posting of a message on a website or by a similar modern technology?

NO – please indicate how the Central Authority would respond if it were to receive such requests:

YES

a. From which State(s) did these requests emanate?

Italy

Italia

b. Did the requests for service provide any particular circumstances or explanations as to why the execution of using such technologies was requested?

YES – what were these circumstances or explanations? (please tick all relevant boxes)

Urgency

Failure of previous attempts to serve process by traditional means

Use of such technologies approved by judicial authority of the forum or the domestic law of the forum

All parties involved gave their (prior or subsequent) consent

Other – please specify:

Moving the date of a hearing forward, even though the formal request had already been sent to the judge

Cambio de fecha de audiencia (adelanto) cuando el pedido formal ya habia sido remitido al juez

NO

c. Did your State in fact execute any of these requests for service by using any of these modern technologies?

NO – why not?

In the Argentine Republic, service is executed through the judicial channel.

En la República Argentina las notificaciones se realizan por la vía judicial.

- YES – please specify:
- (i) the legal basis upon which these requests for service were executed:
 - (ii) whether a secured transmission was used or required or requested to be used, and if so, which kind:
 - (iii) if and how service upon the addressee was acknowledged or proven in such circumstances:

62) Has your State, as a requesting State under the Service Convention, sent requests for service abroad that expressly asked for documents to be served by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology?

NO

YES

- a. To which State(s) were these requests sent?
- b. Did the requests for service provide any particular circumstances or otherwise provide explanations as to why the execution of service using such technologies was requested?
 - YES – what were these circumstances or explanations? (please tick all relevant boxes)
 - Urgency
 - Failure of previous attempts to serve process by traditional means
 - Use of such technologies approved by the relevant judicial authority or the domestic law of your State
 - All parties involved gave their (prior or subsequent) consent
 - Others – please specify:
 - NO
- c. Were these requests for service in fact executed by using any of these modern technologies?
 - YES
 - NO – please provide any information you may have as to why these requests were not executed:

63) How likely is it that your State would recognise and execute a foreign judgment if the related writ of summons was served abroad by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology (all other conditions for recognition being of course fulfilled)?

Very likely

Likely

Very unlikely

It depends on the technology used – please indicate which modern technology method of service your State would accept:

NO

64) How likely is it that your State would recognise and enforce an agreement made by parties to a contract to the effect that they agree in advance to serve documents by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology?

Very likely

Likely

Very unlikely

Please explain / comment:

NO

D. E-service and the alternative channels of transmission under the Service Convention

65) Does your State interpret the expression "postal channels" in Article 10 a) as including transmissions by:

a. Fax

YES

NO

Comments:

b. E-mail

YES

NO

Comments:

c. SMS

YES

NO

Comments:

d. The posting of a message on a website

YES

NO

Comments:

The Argentine Republic deems 'postal channel' to be the mailing of documents directly to the interested party.

La República Argentina entiende por vía postal la remisión de documentación por correo directamente al interesado.

E. Miscellaneous

66) Have there been any other recent developments in your State in relation to the service of documents by fax, e-mail, SMS, the posting of a message on a website or by using a similar modern technology (including in situations involving one of the alternative channels of transmission under the Service Convention where applicable)? Please describe below and provide the citations for and / or a copy of any relevant decision or article in this regard (if this information is not in English or French, a summary into one of these languages would be appreciated):

NO

67) In Conclusions and Recommendations Nos 60 to 62, the 2003 Special Commission noted, amongst other matters, that the Service Convention does not on its terms prevent or prescribe the use of modern technologies to assist in further improving its operation and that States Parties to the Service Convention should explore all ways in which they could use modern technology. Does your State think that the use of modern technologies under the Service Convention should be further encouraged by the adoption of:

a. Specific Conclusions and Recommendations to that effect by the 2009 Special Commission

YES

NO

Comments:

Although we understand the dynamism that new technologies might bring to these aspects, the Argentine Republic is not ready to address this type of issues, mainly due to the lack of infrastructure.

Si bien se entiende el dinamismo que el uso de modernas tecnologías podría llevar a estas cuestiones, lo cierto es que La República Argentina no se encuentra preparada para abordar este tipo de cuestiones, principalmente por la falta de infraestructura para ello.

b. A Protocol to the Service Convention:

YES

NO

Comments:

Thank you!

* * *

ANNEX 1

CONVENTIONS**Law No. 25097****Approval of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters**

Passed: 21 April 1999.

Approved by the Executive: 18 May 1999.

The Senate and House of Representatives of the Argentine Republic assembled in Congress, etc. do hereby enact with the force of law as follows:

ARTICLE 1 — The Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed in The Hague – Kingdom of the Netherlands – on 15 November 1965, which consists of thirty-one (31) Articles and (1) Annex, and the authenticated copy of which is an integral part of this law, is hereby approved.

ARTICLE 2 — Be this law notified to the Federal Executive.

GIVEN AT THE SESSIONS HALL OF THE ARGENTINE CONGRESS, IN BUENOS AIRES, ON 21 APRIL 1999.

— REGISTERED UNDER No. 25097 —

ALBERTO R. PIERRI. — EDUARDO MENEM. — Esther H. Pereyra Arandía de Pérez Pardo. — Juan C. Oyarzun.

CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS
(Concluded 15 November 1965)
(Entered into force 10 February 1969)

The States signatory to the present Convention,

Desiring to create appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time,

Desiring to improve the organization of mutual judicial assistance for that purpose by simplifying and expediting the procedure,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

Article 1

The present Convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad.

This Convention shall not apply where the address of the person to be served with the document is not known.

CHAPTER I – JUDICIAL DOCUMENTS

Article 2

Each Contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other Contracting States and to proceed in conformity with the provisions of Articles 3 to 6.

Each State shall organise the Central Authority in conformity with its own law.

Article 3

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Article 4

If the Central Authority considers that the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either –

a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph (b) of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 6

The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention.

The certificate shall state that the document has been served and shall include the method, the place and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the reasons which have prevented service.

The applicant may require that a certificate not completed by a Central Authority or by a judicial authority shall be countersigned by one of these authorities.

The certificate shall be forwarded directly to the applicant.

Article 7

The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate.

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English.

Article 8

Each Contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly through its diplomatic or consular agents.

Any State may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate.

Article 9

Each Contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which are designated by the latter for this purpose.

Each Contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with –

- a) the freedom to send judicial documents, by postal channels, directly to persons abroad,
- b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,
- c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 11

The present Convention shall not prevent two or more Contracting States from agreeing to permit, for the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding Articles and, in particular, direct communication between their respective authorities.

Article 12

The service of judicial documents coming from a Contracting State shall not give rise to any payment or reimbursement of taxes or costs for the services rendered by the State addressed.

The applicant shall pay or reimburse the costs occasioned by-

- a) the employment of a judicial officer or of a person competent under the law of the State of destination,
- b) the use of a particular method of service.

Article 13

Where a request for service complies with the terms of the present Convention, the State addressed may refuse to comply therewith only if it deems that compliance would infringe its sovereignty or security.

It may not refuse to comply solely on the ground that, under its internal law, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.

Article 14

Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that –

- a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or

b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention,

and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled-

a) the document was transmitted by one of the methods provided for in this Convention,

b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,

c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

Article 16

When a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled –

a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal, and

b) the defendant has disclosed a *prima facie* defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each Contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment.

This Article shall not apply to judgments concerning status or capacity of persons.

CHAPTER II – EXTRAJUDICIAL DOCUMENTS

Article 17

Extrajudicial documents emanating from authorities and judicial officers of a Contracting State may be transmitted for the purpose of service in another Contracting State by the methods and under the provisions of the present Convention.

CHAPTER III – GENERAL CLAUSES

Article 18

Each Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence.

The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority.

Federal States shall be free to designate more than one Central Authority.

Article 19

To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.

Article 20

The present Convention shall not prevent an agreement between any two or more Contracting States to dispense with –

- a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3,
- b) the language requirements of the third paragraph of Article 5 and Article 7,
- c) the provisions of the fourth paragraph of Article 5,
- d) the provisions of the second paragraph of Article 12.

Article 21

Each Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the following –

- a) the designation of authorities, pursuant to Articles 2 and 18,
- b) the designation of the authority competent to complete the certificate pursuant to Article 6,
- c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9.

Each Contracting State shall similarly inform the Ministry, where appropriate, of –

- a) opposition to the use of methods of transmission pursuant to Articles 8 and 10,
- b) declarations pursuant to the second paragraph of Article 15 and the third paragraph of Article 16,
- c) all modifications of the above designations, oppositions and declarations.

Article 22

Where Parties to the present Convention are also Parties to one or both of the Conventions on civil procedure signed at The Hague on 17th July 1905, and on 1st March 1954, this Convention shall replace as between them Articles 1 to 7 of the earlier Conventions.

Article 23

The present Convention shall not affect the application of Article 23 of the Convention on civil procedure signed at The Hague on 17th July 1905, or of Article 24 of the Convention on civil procedure signed at The Hague on 1st March 1954.

These Articles shall, however, apply only if methods of communication, identical to those provided for in these Conventions, are used.

Article 24

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, unless the Parties have otherwise agreed.

Article 25

Without prejudice to the provisions of Articles 22 and 24, the present Convention shall not derogate from Conventions containing provisions on the matters governed by this Convention to which the Contracting States are, or shall become, Parties.

Article 26

The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 27

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 26.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 28

Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.

In the absence of any such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.

Article 29

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

Article 30

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 31

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following –

- a) the signatures and ratifications referred to in Article 26;
- b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27;

- c) the accessions referred to in Article 28 and the dates on which they take effect;
- d) the extensions referred to in Article 29 and the dates on which they take effect;
- e) the designations, oppositions and declarations referred to in Article 21;
- f) the denunciations referred to in the third paragraph of Article 30.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.

ANNEX TO THE CONVENTION

Request and Certificate Models

REQUEST

FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.

Identity and address of the applicant:

Address of receiving authority:

The undersigned applicant has the honour to transmit – in duplicate – to the receiving authority the documents listed below and, in conformity with Article 5 of the abovementioned Convention, requests prompt service of one copy thereof on the addressee, i.e.

(identity and address).....

a) in accordance with the provisions of sub paragraph (a) of the first paragraph of Article 5 of the Convention.*

b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5):*

.....

.....

c) by delivery to the addressee, if the addressee accepts it voluntarily (second paragraph of Article 5).*

The authority is requested to return or to have returned to the applicant a copy of the documents –and of the annexes* - with a certificate as provided on the next page.

List of documents:

.....

.....

.....

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,

1. * that the request has been served *

—the (date):

—at (place, street, number):

—in one of the following methods authorized by Article 5:

a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention.*

b) in accordance with the following particular method: *

c) by delivery to the addressee, who accepted it voluntarily.*

—The documents referred to in the request have been delivered to:

—(identity and description of person)

—relationship to the addressee (family, business or other)

.....

2. * that the document has not been served, by reason of the following facts: *

In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement.*

Annexes:

Documents returned:

.....

.....

In appropriate cases, documents establishing the service:

.....

.....

.....

.....

Done ... at ... the
Signature and/or stamp

* Cross out whichever does not apply

(Back of the request)

CERTIFICATE

Done ... at ... the
Signature and/or stamp

- Cross out whichever does not apply.

ESSENTIAL ELEMENTS OF THE DOCUMENT

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.

(Article 5, fourth paragraph)

Name and address of the requesting authority:

Particulars of the Parties: *

JUDICIAL DOCUMENT **

Nature and purpose of the document:

Nature and purpose of the proceeding and, where appropriate, the amount in dispute:

Date and place for entering appearance: **

Court which has given judgment: **

Date of judgment: **

Time limits stated in the document:

EXTRAJUDICIAL DOCUMENT **

Nature and purpose of the document:

Time limits stated in the document: **

* If appropriate, identity and address of the person interested in transmitting the document.

** Cross out whichever does not apply.

ANEXO 1

CONVENIOS**Ley 25.097****Apruébase un Convenio Relativo a la Comunicación y Notificación en el Extranjero de Documentos Judiciales y Extrajudiciales en Materia Civil o Comercial.**

Sancionada: Abril 21 de 1999.

Promulgada de Hecho: Mayo 18 de 1999.

El Senado y Cámara de Diputados de la Nación Argentina reunidos en Congreso, etc. sancionan con fuerza de Ley:

ARTICULO 1º — Apruébase el Convenio Relativo a la Comunicación y Notificación en el Extranjero de Documentos Judiciales y Extrajudiciales en Materia Civil o Comercial, suscripto en La Haya —Reino de los Países Bajos—, el 15 de noviembre de 1965, que consta de treinta y un (31) artículos y un (1) Anexo, cuya fotocopia autenticada forma parte de la presente ley.

ARTICULO 2º — Comuníquese al Poder Ejecutivo Nacional.

DADA EN LA SALA DE SESIONES DEL CONGRESO ARGENTINO, EN BUENOS AIRES, A LOS VEINTIUN DIAS DEL MES DE ABRIL DEL AÑO MIL NOVECIENTOS NOVENTA Y NUEVE.

— REGISTRADO BAJO EL Nº 25.097 —

ALBERTO R. PIERRI. — EDUARDO MENEM. — Esther H. Pereyra Arandía de Pérez Pardo. — Juan C. Oyarzun.

CONVENIO RELATIVO A LA COMUNICACIÓN Y NOTIFICACION EN EL EXTRANJERO DE DOCUMENTOS JUDICIALES Y EXTRAJUDICIALES EN MATERIA CIVIL O COMERCIAL

(Concluido el 15 de noviembre de 1965)

Los Estados signatarios del presente Convenio,

Deseando crear los medios necesarios para que los documentos judiciales y extrajudiciales que deben ser comunicados o notificados en el extranjero sean conocidos por sus destinatarios en tiempo oportuno,

Interesados en mejorar a tal fin la asistencia judicial mutua, simplificando y acelerando el procedimiento,

Han resuelto concluir un Convenio a estos efectos y han acordado las disposiciones siguientes:

Artículo 1

El presente Convenio se aplica, en materia civil o comercial, a todos los casos en que un documento judicial o extrajudicial deba ser transmitido al extranjero para ser comunicado o notificado.

El Convenio no se aplicará cuando la dirección del destinatario del documento sea desconocida.

Capítulo Primero

DOCUMENTOS JUDICIALES

Artículo 2

Cada Estado contratante designará una autoridad central que asuma, conforme a los Artículos 3 a 6, la función de recibir las peticiones de comunicación o de notificación procedentes de otro Estado contratante y de darles curso ulterior.

Cada Estado organizará la autoridad central de conformidad con su propia legislación.

Artículo 3

La Autoridad o el funcionario judicial competente según las leyes del Estado de origen dirigirá a la autoridad central del Estado requerido una petición conforme al formulario modelo anexo al presente Convenio, sin que sea necesaria la legalización de los documentos ni otra formalidad análoga.

La petición deberá acompañarse del documento judicial o de su copia, ambos por duplicado.

Artículo 4

Si la autoridad central estima que las disposiciones del Convenio no han sido respetadas, informará inmediatamente al requirente precisando sus objeciones contra la petición.

Artículo 5

La autoridad central del Estado requerido procederá u ordenará al organismo pertinente, proceder a la comunicación o a la notificación del documento:

a) sea según las formas prescritas por la legislación del Estado requerido para la comunicación o la notificación de los documentos otorgados en este país y que se destinen a personas que se encuentren en su territorio.

b) sea según la forma particular solicitada por el requirente, siempre que no resulte incompatible con la ley del Estado requerido.

Salvo en el caso previsto en el párrafo primero, letra b), el documento podrá remitirse siempre al destinatario que lo acepte voluntariamente.

Si el documento debe ser comunicado o notificado conforme al párrafo primero, la autoridad central podrá solicitar que el documento sea redactado o traducido en el idioma o en uno de los idiomas oficiales de su país.

La parte de la petición que, conforme al formulario modelo anexo al presente Convenio, contiene los elementos esenciales del documento se remitirá al destinatario.

Artículo 6

La autoridad central del Estado requerido o cualquier autoridad que éste haya designado a este fin expedirá una certificación conforme al formulario modelo anexo al presente Convenio.

La certificación describirá el cumplimiento de la petición; indicará la forma, el lugar y la fecha del cumplimiento así como la persona a la que el documento haya sido remitido. En su defecto precisará el hecho que haya impedido el cumplimiento.

El requirente podrá solicitar que la certificación que no esté expedida por la autoridad central o por una autoridad judicial sea refrendada por una de estas autoridades.

La certificación se dirigirá directamente al requirente.

Artículo 7

Los términos impresos en el formulario modelo anexo al presente Convenio estarán obligatoriamente redactados, ya sea en idioma francés, o en idioma inglés. Podrán redactarse además en el idioma oficial o en uno de los idiomas oficiales del Estado de origen.

Completarán los espacios en blanco correspondientes en el idioma del Estado requerido, o en idioma francés o inglés.

Artículo 8

Cada Estado contratante tiene la facultad de realizar directamente por medio de sus agentes diplomáticos o consulares, sin coacción alguna, las comunicaciones o notificaciones de documentos judiciales a las personas que se encuentren en el extranjero.

Todo Estado podrá declarar que se opone a la utilización de esta facultad dentro de su territorio, salvo que el documento deba ser comunicado o notificado a un nacional del Estado de origen.

Artículo 9

Cada Estado contratante tiene además la facultad de utilizar la vía consular para transmitir, a los fines de comunicación o de notificación, los documentos judiciales a las autoridades de otro Estado contratante que éste haya designado.

Si así lo exigen circunstancias excepcionales, cada Estado contratante tiene la facultad de utilizar, a los mismos fines, la vía diplomática.

Artículo 10

Salvo que el Estado de destino declare oponerse a ello, el presente Convenio no impide:

- a) la facultad de remitir directamente, por vía postal, los documentos judiciales a las personas que se encuentren en el extranjero.
- b) La facultad, respecto de funcionarios judiciales, funcionarios u otras personas competentes del Estado de origen, de proceder a las comunicaciones o notificaciones de documentos judiciales directamente a través de funcionarios judiciales, funcionarios u otras personas competentes del Estado de destino.
- c) La facultad, respecto de cualquier persona interesada en un procedimiento judicial, de proceder a las comunicaciones o notificaciones de documentos judiciales directamente a través de funcionarios judiciales, funcionarios u otras personas competentes del Estado de destino.

Artículo 11

El presente Convenio no se opone a que dos o más Estados contratantes acuerden admitir, a los fines de comunicación o notificación de documentos judiciales, otras vías de transmisión distintas a las previstas en los artículos que preceden y, en particular, la comunicación directa entre sus autoridades respectivas.

Artículo 12

Las comunicaciones o notificaciones de documentos judiciales provenientes de un Estado contratante no podrán dar lugar al pago o al reembolso de tasas o gastos por los servicios del Estado requerido.

El requirente está obligado a pagar o reembolsar los gastos ocasionados por:

- a) la intervención de un funcionario judicial o de una persona competente según la ley del Estado de destino.
- b) La utilización de una forma particular.

Artículo 13

El cumplimiento de una petición de comunicación o notificación conforme a las disposiciones del presente Convenio, no podrá ser denegado sino cuando el Estado requerido juzgue que este cumplimiento es de tal naturaleza que implica un atentado a su soberanía o a su seguridad.

El cumplimiento no podrá denegarse por el solo motivo de que según su legislación, el Estado requerido reivindique competencia judicial exclusiva para el procedimiento en cuestión o de que su derecho interno no admita la acción a que se refiere la petición.

En caso de denegación, la autoridad central informará inmediatamente al requirente e indicará los motivos.

Artículo 14

Las dificultades que surgieren en relación con la transmisión, a los fines de comunicación o notificación de documentos judiciales, serán resueltas por vía diplomática.

Artículo 15

Cuando un emplazamiento a comparecer en juicio o un documento equivalente debiera ser transmitido al extranjero a efectos de comunicación o notificación, según las disposiciones del presente Convenio, y el demandado no compareciera, no se dictará sentencia hasta que se establezca que:

a) el documento ha sido comunicado o notificado según las formas prescriptas en la legislación del Estado requerido para la comunicación o notificación de los documentos otorgados en este país y que están destinados a las personas que se encuentran en su territorio; o bien

b) que el documento ha sido efectivamente remitido al demandado o a su residencia según otro procedimiento previsto por el presente Convenio;

y que, en cualquiera de estos casos, ya sea la comunicación o notificación, o la remisión, hayan tenido lugar en tiempo oportuno para que el demandado pudiera defenderse.

Cada Estado Contratante tiene la facultad de declarar que sus jueces, pese a las disposiciones del párrafo 1º de este Artículo, aun si ningún certificado de comunicación o notificación hubiese sido recibido, pueden dictar sentencia cuando se reúnan las siguientes condiciones:

a) el documento ha sido transmitido según alguno de los modos previstos por el presente Convenio;

b) ha transcurrido, desde la fecha de envío del documento, un plazo que el juez apreciará en cada caso particular y que será al menos de seis meses; y

c) no obstante las diligencias oportunas ante las autoridades competentes del Estado requerido no ha podido obtener certificación alguna.

El presente artículo no impide que, en caso de urgencia, el juez ordene cualesquiera medidas provisionales o cautelares.

Artículo 16

Cuando un emplazamiento a comparecer en juicio o un documento equivalente debió transmitirse al extranjero a efectos de comunicación o notificación, según las disposiciones del presente Convenio, y se ha dictado sentencia contra el demandado que no haya comparecido, el juez tendrá la facultad de eximir a dicho demandado de la preclusión resultante de la expiración de los plazos del recurso, si se reúnen las condiciones siguientes:

a) el demandado, sin mediar culpa de su parte, no tuvo conocimiento en tiempo oportuno de dicho documento para defenderse, o de la sentencia para interponer recurso.

b) los alegatos del demandado no parecen desprovistos en principio de fundamento.

La solicitud tendiente al levantamiento de la preclusión sólo será admisible si se formula dentro de un plazo razonable a partir del momento en que el demandado tuvo conocimiento de la sentencia.

ANEXO AL CONVENIO

Modelos de petición y certificación

PETICION

A LOS FINES DE COMUNICACION O DE NOTIFICACION EN EL EXTRANJERO DE DOCUMENTO JUDICIAL O EXTRAJUDICIAL

Convenio relativo a la Comunicación y Notificación en el Extranjero de Documentos Judiciales o Extrajudiciales en Materia Civil o Comercial, firmado en La Haya el 15 de noviembre de 1965.

Identidad y dirección

Dirección de la autoridad

del requirente:

destinataria:

El requirente infrascripto tiene el honor de remitir —por duplicado— a la autoridad destinataria los documentos abajo enumerados rogándole, conforme al Artículo 5 del Convenio precitado, haga remitir sin demora un ejemplar al destinatario, a saber

(identidad y dirección).....

a) según las formas legales (artículo 5, párrafo primero, letra a)*.

b) según la forma particular siguiente (Artículo 5, párrafo primero, letra b)*:

c) según el caso, por simple remisión al interesado, si acepta voluntariamente (Artículo 5, párrafo segundo)*

Se ruega a esa autoridad reenvíe o haga reenviar al requirente un ejemplar del documento —y de sus anexos—* con la certificación que figura al dorso.

Enumeración de los documentos:

.....
.....
.....

Hecho ... en ... de ... de ...

Firma y/o sello

* Tachar lo que no corresponde.

(Dorso de la petición)

CERTIFICACION

La autoridad infrascripta tiene el honor de certificar, conforme al Artículo 6 de dicho Convenio,

1. que la petición ha sido ejecutada*

—el (fecha):

—en (localidad, calle, número):

—en una de las formas siguientes previstas en el Artículo 5:

a) según las formas legales (Artículo 5, párrafo primero, letra a)*

b) según la forma particular siguiente*:

c) por simple remisión al destinatario que lo aceptó voluntariamente.*

—Los documentos mencionados en la petición han sido remitidos a:

—(identidad y datos de la persona)

—Relación con el destinatario del documento (familiar, comercial u otra)

.....

2. que la petición no ha sido ejecutada en razón a los hechos siguientes: *

Conforme al artículo 12 párrafo segundo, de dicho Convenio, se ruega al requirente el pago o reembolso de los gastos cuyo detalle figura en la declaración adjunta*.

Anexos:

Documentos reenviados:

.....
.....

Si correspondieran, los documentos

justificativos de la ejecución:.....

.....
.....
.....

Hecho ... en ... de ... de ...

Firma y/o sello

*Tachar lo que no corresponde.

ELEMENTOS ESENCIALES DEL
DOCUMENTO

Convenio relativo a la Comunicación y Notificación en el Extranjero de Documentos Judiciales y Extrajudiciales en Materia Civil o Comercial firmado en La Haya el 15 de noviembre de 1965.

(Artículo 5 párrafo cuarto)

Nombre y dirección de la autoridad requirente:

Identidad de las Partes*:

DOCUMENTO JUDICIAL **

Naturaleza y objeto del documento:

Naturaleza y objeto del procedimiento y, en su caso, monto del litigio:

Fecha y lugar para fijar la comparecencia**:

Autoridad judicial que ha dictado la sentencia**

Fecha de la sentencia**:

Indicación de los plazos que figuran en el documento:

DOCUMENTO EXTRAJUDICIAL **

Naturaleza y objeto del documento:

Indicación de los plazos que figuran en el documento: **

* Si ha lugar, identidad y dirección de la persona interesada en la transmisión del documento.

** Tachar lo que no corresponde.

ANNEX 2

ARGENTINE CODE OF CIVIL AND COMMERCIAL PROCEDURE

PERSONAL SERVICE OR SERVICE BY WRITTEN NOTICE

Section 135. – Only the following orders will be served personally or by written notice:

- 1) Orders requiring that a complaint, counterclaim and the documents enclosed with the answers thereto be served.
- 2) Orders requiring that defenses be served and orders deciding on any such defenses.
- 3) Orders providing that evidence be furnished and scheduling a preliminary hearing under Section 360.
- 4) Orders providing that a case shall be disposed of via summary judgment, unless the latter occurs at a preliminary hearing.
- 5) Orders issued between the time a case is set for judgment and the time judgment is entered.
- 6) Orders providing for demands or warnings not established by law; informing of precautionary measures or any modification or reversal thereof, or providing that indefinitely-interrupted time periods begin to run again or imposing penalties.
- 7) Orders informing that a case file has been returned, whenever an appellate decision has not been notified or when they provide that indefinitely-interrupted time periods begin to run again.
- 8) The first order issued after a case file has been returned from a court's archive office or after such case file has been stopped or remained outside the court clerk's office for more than three months.
- 9) Orders requiring service of determination of amounts.
- 10) Orders requiring service of an application for reversal of an attachment without the need for filing a motion for intervention.
- 11) Orders requiring that nonparties be summoned.
- 12) Orders entered as a result of a procedural step taken prior to the relevant deadline.
- 13) Final orders and interlocutory orders operating as final orders and their respective clarifications, except for those providing that no further evidence shall be admitted because of negligence.
- 14) Orders denying extraordinary appeals.
- 15) Orders naming the judge or court that will hear a case in the event of a judge's recusal or self-recusal or recognition of a defense of lack of jurisdiction.
- 16) Orders requiring service of a motion for dismissal for failure to prosecute a case.

17) Orders requiring service of a defense based on a statute of limitations under Section 346 (second and third paragraphs).

18) Any other orders expressly mentioned in the law or exceptionally determined by a Court in a duly grounded judgment.

Decisions issued in a preliminary hearing shall not be served by written notice on the parties present or that should have been present thereat.

Court officers shall be deemed to have been given notice on the date of receipt of a file at their respective offices. Case files must be returned no later than three days. Failure to do so shall give rise to the imposition of the applicable disciplinary measures.

The provisions above shall not apply to the Federal Prosecutor General (*Procurador General de la Nación*), Federal Defense Attorney General (*Defensor General de la Nación*), Supreme Court Prosecutors, Appellate Prosecutors, and Appellate Defense Attorneys, who will be served personally at their own offices.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

MEANS OF SERVICE

Section 136. – Service required by this Code or other laws to be made by written notice may also be effected through the following means:

- 1) A notarially-recorded instrument.
- 2) A telegram with a certified copy and return receipt.
- 3) A recorded delivery letter issued in triplicate ("*Carta Documento*") with return receipt.

Service of complaints, counterclaims, subpoenas issued to nonparties, final judgments and service requiring the delivery of copies shall be effected only through written notice or a notarially-recorded instrument, without prejudice to the regulatory powers accorded to the Argentine Supreme Court of Justice.

Delivery of copies shall be deemed completed if the content thereof is transcribed in the respective *Carta Documento* or telegram.

The applicable means of service may be chosen by the appropriate counsel and need not be mentioned in the proceedings.

Any expenses incurred in connection with service of process shall be part of the costs and attorneys' fees payable.

If service of process fails, it shall not be necessary to reapply for the issuance of a new order requiring service, and may thus be effected through alternative means.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

CONTENT AND SIGNATURE OF THE WRITTEN NOTICE

Section 137. – The written notice and other means provided for in the section above shall contain the following information:

- 1) The full name of the person to be served, address and type of address of such person.

- 2) The style of the case in question.
- 3) The Court and Court Clerk's Office before which the case is pending.
- 4) Transcription of the pertinent part of the order.
- 5) Purpose – which must be clearly set forth –, if it does not appear in the order transcribed. If copies of pleadings or documents are enclosed, these must be described in detail in the notice.

The notice shall be signed by the legal counsel of the party interested in giving such notice or by a trustee in bankruptcy, guardian or guardian *ad litem*, notary, clerk or deputy clerk, as the case may be, who must also include their printed name and seal.

The submission of the document in question to the Court Clerk, Post Office or the request made to a notary shall be deemed to constitute notice of the party appearing through or on the advice of counsel.

A court clerk or deputy court clerk must sign all documents giving notice of precautionary measures or of delivery of property and which do not involve attorneys, trustees in bankruptcy, guardians or guardians *ad litem*, unless the notice is given through a notary public.

The court may instruct the clerk to sign notices if deemed expedient on account of urgency or of the purpose of the order in question.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

SERVICE OF PROCESS

Section 138. – Notices shall be sent directly to the notification office, within twenty-four hours, and shall be served and returned in the manner and within the terms prescribed by superintendence regulations.

Delays in the incorporation of written notices shall be deemed a serious offence on the part of the deputy administrative clerk.

If notices are to be served outside the city where the court sits, once they have been sealed, they will be returned immediately to the attorney-at-law or attorney-in-fact after being entered on the record.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

CONFIDENTIAL COPIES

Section 139. – In proceedings relating to the civil status and capacity of persons, when service of written notices is required, copies of the complaint, the counterclaim, and the answer to the complaint and the counterclaim, as well as copies of other pleadings whose content might affect the reputation of the person receiving them, shall be delivered in a sealed envelope. The same requirement will be applicable to the copies of the documents attached to the above pleadings.

The envelope shall be sealed by the staff of the office, with indication of its content, which shall comply with the provisions of section 137 as regards the attached copies, pleadings or documents.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

DELIVERY OF WRITTEN NOTICE OR NOTARIAL CERTIFICATE TO THE INTERESTED PARTY

Section 140. – If service is executed through written notice or notarial certificate, the agent or employee in charge of service shall deliver to the interested party a copy of the instrument and shall indicate, with his signature, the date and time of delivery. The original document shall be added to the file together with an account of the actions taken, as well as the place, date and time of service, signed by the person in charge of service and the interested party, unless the latter refuses or is unable to sign, which circumstance shall be indicated.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

DELIVERY OF THE INSTRUMENT TO DIFFERENT PERSONS

Section 141. – If the person in charge of service does not find the person for whom service is intended, he shall deliver the instrument to any other person in the house, apartment or office, or to the caretaker of the building and shall act in the manner prescribed in the previous section. In case he is unable to deliver the instrument, he shall then post it on the door to such places.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

PERSONAL SERVICE

Section 142. – For personal service to take place, the interested party shall sign the file, below the notice issued by the deputy administrative clerk or the head of the office.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

...

SERVICE BY TELEGRAM OR *CARTA DOCUMENTO*

Section 144. – If service is executed by telegram or *Carta Documento*, the date of service shall be that of the return receipt.

The person signing the notice shall add to the file a copy of the instrument and the return receipt.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

SERVICE BY PUBLICATION OF LEGAL NOTICES

Art. 145. – In addition to the cases provided for in this Code, service by publication of legal notices shall apply when the proceedings involve unknown persons or persons whose address is unknown. In the latter case, the relevant party shall state under oath that he has taken, to no avail, all actions aimed at finding the address of the person that must be notified.

If the statement by the party who claimed not to know the address is false, or if that party could have found such address by exercising due diligence, all actions taken subsequently shall be annulled, he shall bear all costs and expenses and he shall be sentenced to pay a fine of FIFTY ARGENTINE PESOS (ARS 50) to FIFTEEN THOUSAND PESOS (ARS 15,000).

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

PUBLICATION OF LEGAL NOTICES

Section 146. – In the cases provided for in the previous section, legal notices shall be published in the Argentine Official Gazette and in one of the most widely disseminated newspapers in the place of the last address of the person for whom the notice is intended, if such address is known, or, otherwise, in the place where the proceedings shall be conducted. Such publication shall be evidenced through the incorporation of a copy of such newspapers into the file. If there are no newspapers in the abovementioned places, publication shall be carried out in the nearest town with newspapers and the legal notice shall also be posted on the court notice board and in such places as may guarantee its dissemination.

Except in probate proceedings, if the cost of publication is disproportionate to the cost of the proceedings, the publication of legal notices shall be dispensed with; service shall be executed through the court notice board.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

RULES ON LEGAL NOTICES

Section 147. – Legal notices shall contain a summary of the same statements included in written notices and a brief transcription of the resolution.

The number of publications required for each case shall be determined by the Code.

The resolution shall be deemed to have been notified the day after the last publication.

The Supreme Court may order that uniform texts be used for drafting the legal notices.

The Executive Branch may establish that, in the Argentine Official Gazette, a summary of the legal notices containing the same text be published, grouped by courts and clerk offices, with a common heading.

SERVICE BY RADIO OR TELEVISION

Section 148. – In all cases where this Code authorizes the publication of legal notices, upon the request of the interested party, the court may order that such notices be broadcasted on radio or television.

Broadcasts shall be carried in the manner and through the media determined by superintendence regulations. Service shall be evidenced by adding to the file the certificate issued by the radio or television company containing the text of the announcement, which shall be the same as the one in the legal notice, and the date and time of broadcast. The resolution shall be deemed to have been notified the day after the last radio or television broadcast.

The provisions of the penultimate paragraph of section 136 shall apply to the costs of this type of service.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

INVALIDITY OF SERVICE

Section 149. – Any service executed in violation of the provisions of the above sections shall be invalid provided that the irregularity is serious and that it prevents the interested party from duly taking the procedural actions related to the resolution being notified. If the record shows that the party has been notified of the resolution, service shall take effect as from that moment.

The request for invalidity shall be dealt with in an ancillary proceeding, in accordance with sections 172 and 173. The agent or employee who has executed the service declared invalid shall be deemed to have committed a serious offence whenever the irregularity is attributable to him.

(As amended by Section 2 of Law No. 25488, Official Gazette of 22 November 2001)

ANEXO 2

CODIGO PROCESAL CIVIL Y COMERCIAL DE LA NACION

NOTIFICACION PERSONAL O POR CEDULA

Art. 135. - Sólo serán notificadas personalmente o por cédula las siguientes resoluciones:

- 1) La que dispone el traslado de la demanda, de la reconvención y de los documentos que se acompañen con sus contestaciones.
- 2) La que dispone correr traslado de las excepciones y la que las resuelva.
- 3) La que ordena la apertura a prueba y designa audiencia preliminar conforme al artículo 360.
- 4) La que declare la cuestión de puro derecho, salvo que ello ocurra en la audiencia preliminar.
- 5) Las que se dicten entre el llamamiento para la sentencia y ésta.
- 6) Las que ordenan intimaciones, o apercibimientos no establecidos directamente por la ley, hacen saber medidas cautelares o su modificación o levantamiento, o disponen la reanudación de plazos suspendidos por tiempo indeterminado, o aplican correcciones disciplinarias.
- 7) La providencia que hace saber la devolución del expediente, cuando no haya habido notificación de la resolución de alzada o cuando tenga por objeto reanudar plazos suspendidos por tiempo indeterminado.
- 8) La primera providencia que se dicte después que un expediente haya vuelto del archivo de los tribunales, o haya estado paralizado o fuera de secretaría más de tres meses.
- 9) Las que disponen vista de liquidaciones.
- 10) La que ordena el traslado del pedido de levantamiento de embargo sin tercería.
- 11) La que dispone la citación de personas extrañas al proceso.
- 12) Las que se dicten como consecuencia de un acto procesal realizado antes de la oportunidad que la ley señala para su cumplimiento.
- 13) Las sentencias definitivas y las interlocutorias con fuerza de tales y sus aclaratorias con excepción de las que resuelvan caducidad de la prueba por negligencia.
- 14) La providencia que deniega los recursos extraordinarios.
- 15) La providencia que hace saber el juez o tribunal que va a conocer en caso de recusación, excusación o admisión de la excepción de incompetencia.
- 16) La que dispone el traslado del pedido de caducidad de la instancia.
- 17) La que dispone el traslado de la prescripción en los supuestos del artículo 346, párrafos segundo y tercero.

18) Las demás resoluciones de que se haga mención expresa en la ley o determine el Tribunal excepcionalmente, por resolución fundada.

No se notificarán mediante cédula las decisiones dictadas en la audiencia preliminar a quienes se hallaren presentes o debieron encontrarse en ella.

Los funcionarios judiciales quedarán notificados el día de la recepción del expediente en su despacho. Deberán devolverlo dentro del tercer día, bajo apercibimiento de las medidas disciplinarias a que hubiere lugar.

No son aplicables las disposiciones contenidas en el párrafo precedente al Procurador General de la Nación, al Defensor General de la Nación, a los Procuradores Fiscales de la Corte Suprema, a los Procuradores Fiscales de Cámara, y a los Defensores Generales de Cámara, quienes serán notificados personalmente en su despacho.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

MEDIOS DE NOTIFICACION

Art. 136. - En los casos en que este Código u otras leyes establezcan la notificación por cédula, ella también podrá realizarse por los siguientes medios:

- 1) Acta notarial.
- 2) Telegrama con copia certificada y aviso de entrega.
- 3) Carta documento con aviso de entrega.

La notificación de los traslados de demanda, reconvención, citación de personas extrañas al juicio, la sentencia definitiva y todas aquellas que deban efectuarse con entrega de copias, se efectuarán únicamente por cédula o acta notarial, sin perjuicio de la facultad reglamentaria concedida a la Corte Suprema de Justicia.

Se tendrá por cumplimentada la entrega de copias si se transcribe su contenido en la carta documento o telegrama.

La elección del medio de notificación se realizará por los letrados, sin necesidad de manifestación alguna en las actuaciones.

Los gastos que arrojen las notificaciones integrarán la condena en costas.

Ante el fracaso de una diligencia de notificación no será necesaria la reiteración de la solicitud del libramiento de una nueva, la que incluso podrá ser intentada por otra vía.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

CONTENIDO Y FIRMA DE LA CEDULA

Art. 137. - La cédula y los demás medios previstos en el artículo precedente contendrán:

- 1) Nombre y apellido de la persona a notificar o designación que corresponda y su domicilio, con indicación del carácter de éste.
- 2) Juicio en que se practica.
- 3) Juzgado y secretaría en que tramita el juicio.

4) Transcripción de la parte pertinente de la resolución.

5) Objeto, claramente expresado, si no resultare de la resolución transcrita. En caso de acompañarse copias de escritos o documentos, la pieza deberá contener detalle preciso de aquéllas.

El documento mediante el cual se notifique será suscripto por el letrado patrocinante de la parte que tenga interés en la notificación o por el síndico, tutor o curador ad litem notario, secretario o prosecretario en su caso, quienes deberán aclarar su firma con el sello correspondiente.

La presentación del documento a que se refiere esta norma en la Secretaría del Tribunal, oficina de Correos o el requerimiento al notario, importará la notificación de la parte patrocinada o representada.

Deberán estar firmados por el secretario o prosecretario los instrumentos que notifiquen medidas cautelares o entrega de bienes y aquellos en que no intervenga letrado, síndico, tutor o curador ad litem, salvo notificación notarial.

El juez puede ordenar que el secretario suscriba los instrumentos de notificación cuando fuere conveniente por razones de urgencia o por el objeto de la providencia.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

DILIGENCIAMIENTO

Art. 138. - Las cédulas se enviarán directamente a la oficina de notificaciones, dentro de las veinticuatro horas, debiendo ser diligenciadas y devueltas en la forma y en los plazos que disponga la reglamentación de superintendencia.

La demora en la agregación de las cédulas se considerará falta grave del prosecretario administrativo.

Cuando la diligencia deba cumplirse fuera de la ciudad asiento del tribunal, una vez selladas, se devolverán en el acto y previa constancia en el expediente, al letrado o apoderado.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

COPIAS DE CONTENIDO RESERVADO

Art. 139. - En los juicios relativos al estado y capacidad de las personas, cuando deba practicarse la notificación por cédula, las copias de los escritos de demanda, reconvencción y contestación de ambas, así como las de otros escritos cuyo contenido pudiere afectar el decoro de quien ha de recibirlas, serán entregadas bajo sobre cerrado. Igual requisito se observará respecto de las copias de los documentos agregados a dichos escritos.

El sobre será cerrado por personal de la oficina, con constancia de su contenido, el que deberá ajustarse, en cuanto al detalle preciso de copias, de escritos o documentos acompañados, a lo dispuesto en el artículo 137.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

ENTREGA DE LA CEDULA O ACTA NOTARIAL AL INTERESADO

Art. 140. - Si la notificación se hiciere por cédula o acta notarial, el funcionario o empleado encargado de practicarla dejará al interesado copia del instrumento haciendo constar, con su firma, el día y la hora de la entrega. El original se agregará al expediente con nota de lo

actuado, lugar, día y hora de la diligencia, suscripta por el notificador y el interesado, salvo que éste se negare o no pudiese firmar, de lo cual se dejará constancia.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

ENTREGA DEL INSTRUMENTO A PERSONAS DISTINTAS

Art. 141. - Cuando el notificador no encontrare a la persona a quien va a notificar, entregará el instrumento a otra persona de la casa, departamento u oficina, o al encargado del edificio, y procederá en la forma dispuesta en el artículo anterior. Si no pudiese entregarlo, lo fijará en la puerta de acceso correspondiente a esos lugares.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

FORMA DE LA NOTIFICACION PERSONAL

Art. 142. - La notificación personal se practicará firmando el interesado en el expediente, al pie de la diligencia extendida por el prosecretario administrativo o jefe de despacho.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

...

REGIMEN DE LA NOTIFICACION POR TELEGRAMA O CARTA DOCUMENTADA

Art. 144. - Cuando se notifique mediante telegrama o carta documento certificada con aviso de recepción, la fecha de notificación será la de la constancia de la entrega al destinatario.

Quien suscriba la notificación deberá agregar a las actuaciones copia de la pieza impuesta y la constancia de entrega.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

NOTIFICACION POR EDICTOS

Art. 145. - Además de los casos determinados por este Código, procederá la notificación por edictos cuando se tratare de personas inciertas o cuyo domicilio se ignore. En este último caso, la parte deberá manifestar bajo juramento que ha realizado sin éxito las gestiones tendientes a conocer el domicilio de la persona a quien se deba notificar.

Si resultare falsa la afirmación de la parte que dijo ignorar el domicilio, o que pudo conocerlo empleando la debida diligencia, se anulará a su costa todo lo actuado con posterioridad, y será condenada a pagar una multa de PESOS CINCUENTA (\$ 50) a PESOS QUINCE MIL (\$ 15.000).

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

PUBLICACION DE LOS EDICTOS

Art. 146. - En los supuestos previstos por el artículo anterior la publicación de los edictos se hará en el Boletín Oficial y en un diario de los de mayor circulación del lugar del último domicilio del citado, si fuera conocido o, en su defecto, del lugar del juicio, y se acreditará mediante la agregación al expediente de un ejemplar de aquéllos. A falta de diario en los lugares precedentemente mencionados, la publicación se hará en la localidad más próxima que los tuviera, y el edicto se fijará, además, en la tablilla del juzgado y en los sitios que aseguraren su mayor difusión.

Salvo en el proceso sucesorio, cuando los gastos que demandare la publicación fueren desproporcionados con la cuantía del juicio, se prescindirá de los edictos; la notificación se practicará en la tablilla del juzgado.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

NORMAS DE LOS EDICTOS

Art. 147. - Los edictos contendrán, en forma sintética, las mismas enunciaciones de las cédulas, con transcripción sumaria de la resolución.

El número de publicaciones será el que en cada caso determine este Código.

La resolución se tendrá por notificada al día siguiente de la última publicación.

La Corte Suprema podrá disponer la adopción de textos uniformes para la redacción de los edictos.

El Poder Ejecutivo podrá establecer que, en el Boletín Oficial, los edictos a los que corresponda un mismo texto se publiquen en extracto, agrupados por juzgados y secretarías, encabezados por una fórmula común.

NOTIFICACION POR RADIODIFUSION O TELEVISION

Art. 148. - En todos los casos en que este Código autoriza la publicación de edictos, a pedido del interesado, el juez podrá ordenar que aquéllos se anuncien por radiodifusión o televisión.

Las transmisiones se harán en el modo y por el medio que determine la reglamentación de la superintendencia. La diligencia se acreditará agregando al expediente certificación emanada de la empresa radiodifusora o de televisión, en la que constará el texto del anuncio, que deberá ser el mismo que el de los edictos, y los días y horas en que se difundió. La resolución se tendrá por notificada al día siguiente de la última transmisión radiofónica o televisiva.

Respecto de los gastos que irrogare esta forma de notificación, regirá lo dispuesto en el anteúltimo párrafo del artículo 136.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)

NULIDAD DE LA NOTIFICACION

Art. 149. - Será nula la notificación que se hiciere en contravención a lo dispuesto en los artículos anteriores siempre que la irregularidad fuere grave e impidiera al interesado cumplir oportunamente los actos procesales vinculados a la resolución que se notifica. Cuando del expediente resultare que la parte ha tenido conocimiento de la resolución, la notificación surtirá sus efectos desde entonces.

El pedido de nulidad tramitará por incidente, aplicándose la norma de los artículos 172 y 173. El funcionario o empleado que hubiese practicado la notificación declarada nula, incurrirá en falta grave cuando la irregularidad le sea imputable.

(Artículo sustituido por art. 2° de la Ley N° 25.488 B.O. 22/11/2001)