

## PART ONE – GENERAL INFORMATION AND STATISTICS

### 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.

#### Central Authority of Manitoba:

*The information largely continues to be accurate, as it relates to Manitoba. However, some changes or comments are warranted, as follows, for Manitoba:*

1. *Central Authorities (Arts 2 and 18) contact information, under the **Language** column:*
  - *Should indicate "English and French".*
3. *Methods of Service.*
  - *Manitoba normally effects personal service in accordance with its Queen's Bench Rules, (Rule 16), using Sheriff's Officers. However, consideration can be given to applicants who specify particular methods of service under Article 5(b) of the Convention.*
5. *Costs Relating to Execution of Service.*
  - *The \$50 CDN cost includes 20 km of travel distance by a Sheriff's Officer. Beyond that distance, there is an additional charge per kilometre.*
6. *Time for Execution of Request.*
  - *Tends to be from 3 to 4 weeks.*

#### Central Authority of Ontario:

*The information for Ontario is correct.*

- 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):

**Central Authority of British Columbia:**

*Name of Authority: Central Authority Administrator  
 Address: 208 – 553 Superior Street  
 Telephone: 250-387-0724  
 Fax: 250-387-4349  
 E-mail:  
 Website:  
 Language(s) of communication: English  
 Name of contact person: Barb Emerson*

**Central Authority of Manitoba:**

*For Manitoba, one change should be made. "Language of Communication" should be shown as English or French.*

**Central Authority of Prince Edward Island:**

*Name of Authority: Central Authority Administrator  
 Address: 95 Rochford Street, PO Box 2000, Charlottetown, PE C1A 7N8  
 Telephone: 902-368-4594  
 Fax: 902-368-4563  
 E-mail: [dlgillespie@gov.pe.ca](mailto:dlgillespie@gov.pe.ca)  
 Website:  
 Language(s) of communication: English  
 Name of contact person: Deborah Gillespie*

- 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):

*N/A*

- 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.):

### Central Authority of Quebec:

*For Quebec, it would be appropriate to remove "The prothonotaries and deputy prothonotaries" ["les protonotaires et sous-protonotaires"], which has been replaced by "clerks" ["greffiers"], already enumerated in Canada's list of forwarding authorities. It would also be appropriate to remove "The Percepteur des pensions alimentaires au Québec".*

### C. Statistics

#### 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.

### Central Authority of Quebec:

2003	2004	2005	2006	2007
Number: <b>385</b> notifications, <b>289</b> services State(s): Notifications: <i>France</i> Services: <i>United States,</i> <i>Greece</i>	Number: <b>440</b> notifications, <b>343</b> services State(s): Notifications: <i>France</i> Services: <i>United States,</i> <i>Greece</i>	Number: <b>439</b> notifications <b>342</b> services State(s): Notifications: <i>France</i> Services: <i>United States,</i> <i>Greece</i>	Number: <b>220</b> notifications <b>466</b> services State(s): Notifications: <i>France</i> Services: <i>France, United</i> <i>States</i>	Number: <b>77</b> notifications <b>555</b> services State(s): Notifications: <i>France=75</i> Services: <i>France=287</i> <i>United</i> <i>States=123</i> <i>Greece=38</i>

### Central Authority of Alberta:

2003	2004	2005	2006	2007
Number: <b>124</b> State(s): <i>USA</i>	Number: <b>132</b> State(s): <i>USA</i>	Number: <b>131</b> State(s): <i>USA</i>	Number: <b>108</b> State(s): <i>USA</i>	Number: <b>119</b> State(s): <i>USA</i>

### Central Authority of British Columbia:

2003	2004	2005	2006	2007
Number: <b>254</b> State(s): <i>USA</i>	Number: <b>292</b> State(s): <i>USA</i>	Number: <b>334</b> State(s): <i>USA</i>	Number: <b>292</b> State(s): <i>USA</i>	Number: 291 State(s): <i>USA</i>

**Central Authority of Manitoba:**

Manitoba responds to each individual request it receives, without compiling general statistics. For practical reasons, the only information Manitoba has is that 40 requests were received from October 2007 to current (ie. September 2008). Requests came from USA, France, Greece, Italy, China, Portugal, Poland and Korea.

**Central Authority of Prince Edward Island:**

2003	2004	2005	2006	2007
Number: <b>1</b> State(s): <i>USA</i>	Number: <b>2</b> State(s): <i>USA</i>	Number: <b>1</b> State(s): <i>USA</i>	Number: <b>2</b> State(s): <i>USA &amp; Germany</i>	Number: <b>2</b> State(s): <i>USA &amp; Egypt</i>

**Central Authority of Ontario:**

2003	2004	2005	2006	2007
Number: <b>782</b> State(s): <i>USA</i>	Number: <b>973</b> State(s): <i>USA</i>	Number: <b>989</b> State(s): <i>USA</i>	Number: <b>873</b> State(s): <i>USA</i>	Number: <b>878</b> State(s): <i>USA</i>

- 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:

**Central Authority of Quebec:**

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))	Notifications: 74 Services: 413	Notifications: 3 Services: 59	Services: 18	Services: 63	Services: 2		
Service by a particular method (Art. 5(1) b)) <sup>1</sup>							
Informal delivery (Art. 5(2))							
<b>Sub-totals:</b>	74 413	3 59	18	63	2		

*It should be noted that excessive processing times are due to incomplete requests.*

**Central Authority of Alberta:**

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))	96	16	0	0	0	7	0-
Service by a particular method (Art. 5(1) b)) <sup>2</sup>							
Informal delivery (Art. 5(2))							
<b>Sub-totals:</b>	96	16	0	0	0	7	0

<sup>1</sup> See Question 29) 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 29) b. (i).

<sup>2</sup> See Question 29) 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 29) b. (i).

### Central Authority of British Columbia:

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))	201	23	7	1		57	--
Service by a particular method (Art. 5(1) b)) <sup>3</sup>							
Informal delivery (Art. 5(2))		2					
<b>Sub-totals:</b>	201	25	7	1		57	

### Central Authority of Manitoba:

*Manitoba does not compile general statistics regarding the requests it receives. However, almost all requests for service are effected through personal service – either because the request was made under Article 5(1)(a), or under Article 5(1)(b) with the request expressly identifying for personal service. Most requests take less than two months to complete, although sometimes it can take between 2 months and 4 months.*

### Central Authority of Prince Edward Island:

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))	2					1	0
Service by a particular method (Art. 5(1) b)) <sup>4</sup>							
Informal delivery (Art. 5(2))							
<b>Sub-totals:</b>	2					1	0

<sup>3</sup> See Question 29) 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 29) b. (i).

<sup>4</sup> See Question 29) 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 29) b. (i).

### Central Authority of Ontario:

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))	670	159	26	23			
Service by a particular method (Art. 5(1) b)) <sup>5</sup>							
Informal delivery (Art. 5(2))							
<b>Sub-totals:</b>	670	159	26	23			

### 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.

### Central Authority of Manitoba:

*Manitoba has no way of knowing what number of requests are sent out from Manitoba, because there is no requirement for "forwarding authorities" to centrally report every request made.*

- 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:

<sup>5</sup> See Question 29) 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 29) b. (i).

**Central Authority of Quebec:**

*As the Central Authority of Quebec does not act as a requesting authority, we do not have any information on this subject.*

**Central Authority of Manitoba:**

*Manitoba has no information about requests that are sent out from Manitoba.*

**D. General appreciation of the Service Convention**

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

- Excellent
- 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.

**Central Authority of Quebec:**

- Excellent
- Good
- Satisfactory
- Unsatisfactory

*Forwarding authorities abroad do not use the Model Form systematically. Furthermore, the quality of translation of documents accompanying the requests made to the Central Authority of Quebec does not always meet minimum standards, thereby jeopardizing comprehension.*

**Central Authority of Alberta:**

- Excellent - Consideration should be given to increasing the \$50 Service Fee
- Good
- Satisfactory
- Unsatisfactory

**Central Authority of British Columbia:**

- Excellent
- Good
- Satisfactory
- Unsatisfactory

**Central Authority of Manitoba:**

- Excellent
- Good
- Satisfactory
- Unsatisfactory



**Central Authority of Prince Edward Island:**

- Excellent - *Consideration should be given to increasing the \$50 Service Fee*
- Good
- Satisfactory
- Unsatisfactory

**Central Authority of Ontario:**

- Excellent
- Good
- Satisfactory
- Unsatisfactory

**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.

*N/A*

- 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.

**Central Authority of British Columbia:**

*Please find attached the text of the following decisions:*

*S.A.G v. N.J G. , 2003 BCSC 649*

*Tamlin International Homes v. Ikoma, et al. 2001 BCSC 1039*

*Mathers v. Bruce, 2002 BCSC 210*

*Wall, Redekop and Wall Financial Corp. v. Toyota Motor Co, 1993*

*Traxler v. Metzeler Reofem GMBH, 2000 BCSC 808*

*Drove v. Mansvelt et al., 2000 BCSC 1806*

**Central Authority of Ontario:**

*Wilson v. Servier Canada Inc. 2002 CanLII 49426 (Ontario Superior Court of Justice)*

*Samina North America Inc. v. H3 Environmental II LLC, [2004] O.J. No. 6229*

*169 A.C.W.S. (3d) 30 (Ontario Superior Court of Justice)*

*Smith v. National Money Mart Co. [2006] O.J. No. 3649*

*151 A.C.W.S. (3d) 199 (Ontario Superior Court of Justice)*

*Zhang et al. v. Jiang 2006 CanLII 24131 (Ontario Superior Court of Justice)*

- 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.

**Central Authority of British Columbia:**

*J. W. Horn, "Service of Process Abroad – Hague Convention and Other Matters" (1991) 49 Advocate 177.*

**Central Authority of Manitoba:**

*GREGORY, John D.: The Hague Service Abroad Convention (1990), 11 Advocates Quarterly 327.*

**Central Authority of Ontario:**

*GREGORY, John D.: The Hague Service Abroad Convention (1990), 11 Advocates Quarterly 327 - 354.*

*CASTEL, JG and Walker, J, Canadian Conflict of Laws, Lexis-Nexis Canada, 6<sup>th</sup> ed. (looseleaf), paragraphs 11.14 - 11.16*

- 15) 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.

**Central Authority of Quebec:**

*Sections 138, 198.1, 484.1 and 523 of the Code of Civil Procedure (CCP) are the primary legislative provisions connected with the application of the Convention.<sup>6</sup>*

**Central Authority of Alberta:**

*Alberta Rules of Court 390/68; 3 Letters from 1988.*

**Central Authority of British Columbia:**

*Rules of Court, B.C. Reg. 221/90, Rule 13.*

**Central Authority of Manitoba:**

*For a proceeding in Manitoba, Queen's Bench Rule 17 provides for service on persons outside of Manitoba.*

<http://web2.gov.mb.ca/laws/rules/qbr1e.php#r17>

**Central Authority of Prince Edward Island:**

*Rules of Civil Procedure, P.E.I. Rule 17.05(1).*

**Central Authority of Ontario:**

**Rules of Civil Procedure**, Revised Regulations of Ontario 1990, regulation 194 Rule 17.05

[http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_900194\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900194_e.htm)

- 16) 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).

<sup>6</sup> The Code of Civil Procedure is available at the following Web address:

[http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C\\_25/C25.HTM](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C_25/C25.HTM)

**Central Authority of Quebec:**

*Agreement between Quebec and France on legal assistance in civil, commercial and administrative matters signed at Québec on September 9, 1977.*

**Central Authority of Alberta:**

*Agreement with Civil Enforcement Agencies to serve documents.*

**Central Authority of Ontario:**

*See Castel and Walker, above, paragraph 11.16.*

**F. Service Handbook**

- 17) 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?

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:

- 18) Do practitioners (attorneys, process servers, etc.) in your State also consult and rely on the Service Handbook?

**Central Authority of British Columbia:**

YES

NO

No information available for possible comment

**Central Authority of Ontario:**

YES

NO

No information available for possible comment

- 19) 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. No-mandatory but exclusive character of the Service Convention

20) 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”

21) 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:

- 22) 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”:

**Central Authority of Quebec:**

- Bankruptcy or insolvency in general  
 Reorganisation under bankruptcy laws  
 Insurance  
 Social security  
 Employment  
 Taxation  
 Anti-trust and competition  
 Consumer protection  
 Regulation and oversight of financial markets and stock exchange (*e.g.*, in matters possibly involving insider trading)  
 Proceeds of crime  
 Other matters (please specify):

**Central Authority of Alberta:**

- Bankruptcy or insolvency in general  
 Reorganisation under bankruptcy laws  
 Insurance  
 Social security  
 Employment  
 Taxation  
 Anti-trust and competition  
 Consumer protection  
 Regulation and oversight of financial markets and stock exchange (*e.g.*, in matters possibly involving insider trading)  
 Proceeds of crime  
 Other matters (please specify):

*Family Law (Divorce, Child Custody/Maintenance; Gambling Debts; Inheritance; Property (land) Disputes; Motor Vehicle Accidents*

**Central Authority of British Columbia:**

- Bankruptcy or insolvency in general  
 Reorganisation under bankruptcy laws  
 Insurance  
 Social security  
 Employment  
 Taxation  
 Anti-trust and competition  
 Consumer protection  
 Regulation and oversight of financial markets and stock exchange (*e.g.*, in matters possibly involving insider trading)  
 Proceeds of crime  
 Other matters (please specify):

**Central Authority of Manitoba:**

- Bankruptcy or insolvency in general

- [Y] Reorganisation under bankruptcy laws
- [Y] Insurance
- [Y] Social security
- [Y] Employment
- [N] Taxation
- [N] Anti-trust and competition
- [Y] Consumer protection
- [N] Regulation and oversight of financial markets and stock exchange (e.g., in matters possibly involving insider trading)
- [N] Proceeds of crime
- [ ] Other matters (please specify):

*has not yet been required to take any position as to where the line is drawn for what amounts to "civil or criminal matters".*

**Central Authority of Prince Edward Island:**

- [Y] Bankruptcy or insolvency in general
- [Y] Reorganisation under bankruptcy laws
- [Y] Insurance
- [Y] Social security
- [Y] Employment
- [Y] Taxation
- [Y] Anti-trust and competition
- [Y] Consumer protection
- [N] Regulation and oversight of financial markets and stock exchange (e.g., in matters possibly involving insider trading)
- [N] Proceeds of crime
- [Y] Other matters (please specify):

*Family Law (Divorce, Child Custody/Maintenance; Inheritance; Property (land) Disputes; Motor Vehicle Accidents*

**Central Authority of Ontario:**

- [Y] Bankruptcy or insolvency in general
- [Y] Reorganisation under bankruptcy laws
- [Y] Insurance
- [N] Social security
- [Y] Employment
- [N] Taxation
- [Y] Anti-trust and competition
- [Y] Consumer protection
- [Y] Regulation and oversight of financial markets and stock exchange (e.g., in matters possibly involving insider trading)
- [N] Proceeds of crime
- [ ] Other matters (please specify):

*Generally service of documents on private bodies or public authorities is not restricted in our law, so the practice of the Central Authority will be to serve the documents and let the party served dispute the effect in the appropriate forum*

- 23) *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)?*

*N/A*

## B. Interpretation of “judicial and extrajudicial documents”

- 24) 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?

### Central Authority of Quebec:

- 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)?

*As an example, article 2757 of the Civil Code of Québec (CCQ)<sup>7</sup> provides that creditors who intend to exercise a hypothecary right must serve notice on the debtor.*

*Quebec law provides that a notary's declaration of the factual justification for instituting protective supervision of a person of full age must be notified to a family member or the Public Curator (s. 877.0.1 of the Code of Civil Procedure).*

*The Notice of Default could also be cited as an extrajudicial document that might be served; however, these are not mandatory proceedings in Quebec law.*

- (ii) Please explain in what circumstances these extrajudicial documents may have to be served abroad:  
*Quebec law does not specifically provide for service abroad but such an obligation can be inferred from the legislative texts. If the party is not within the territory, it is necessary to have the judge or clerk authorize a mode of service other than those provided in the Code of Civil Procedure (s. 138 CCP). Such authorization is not necessary for service abroad via mail (s. 146.2 CCP).*

- (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).

*The court may authorize service by facsimile or by mail (s. 138 CCP). Notification can also be made by mail (s. 146.2 CCP).*

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

*As the Central Authority of Quebec does not act as a requesting authority, we do not have any information on this subject.*

### Central Authority of Alberta:

- NO

### Central Authority of British Columbia:

- NO

### Central Authority of Manitoba:

- NO

<sup>7</sup> The Civil Code is available at the following Web address: <http://www2.publicationsduquebec.gouv.qc.ca/home.php#>

**Central Authority of Prince Edward Island:** NO**Central Authority of Ontario:** NO

- 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?

**Central Authority of Quebec:** 0 1-10 11-20 More than 20

- (i) Please indicate from which States the requests for service were received:

*From France*

- (ii) Were all these requests executed?

 YES NO – why not?**Central Authority of Ontario:** 0 1-10 11-20 More than 20

- (iii) Please indicate from which States the requests for service were received:

*From France*

- (iv) Were all these requests executed?

 YES NO – why not?**C. Service on States and State Officials**

- 25) 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 0)?

*N/A*

- 26) 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?
  - b. from which State(s), or which agents representing that State, such requests for service were received:
  - c. if service was eventually effected after such requests for service were received, 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, 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)

- 27) 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

- 28) 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?

#### Central Authority of Alberta:

YES

NO

#### Central Authority of British Columbia:

YES

NO

#### Central Authority of Manitoba:

*In Manitoba, the forwarding authority is not centralized. The answer is unknown*

#### Central Authority of Prince Edward Island:

YES

NO

**Central Authority of Ontario:** YES NO

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

**Central Authority of Quebec:** YES – please explain in what circumstances they use private courier services: NO – please explain why:

*As the Central Authority of Quebec does not act as a requesting authority, we do not have any information on this subject.*

**Central Authority of Alberta:** YES – please explain in what circumstances they use private courier services: NO – please explain why:

*As “forwarding authority” I have not had the occasion to send requests abroad. I have assisted members of Alberta’s Law Society (lawyers), but they have completed the actual request.*

**Central Authority of British Columbia:** YES – please explain in what circumstances they use private courier services: NO – please explain why: Unnecessary**Central Authority of Manitoba:**

*In Manitoba, the forwarding authority is not centralized. The answer is unknown*

**Central Authority of Prince Edward Island:** YES – please explain in what circumstances they use private courier services: NO – please explain why:

*As “forwarding authority” I have not had the occasion to send requests abroad. I have assisted members of PEI’s Law Society (lawyers), but they have completed the actual request.*

**Central Authority of Ontario:**

*We have no information about the practices of Forwarding Authorities.*

- 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?

**B. Methods of service (Art. 5)**

29) 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)):

**Central Authority of Quebec:**

*In Quebec, the normal procedure is personal service by a bailiff who delivers a copy of the document to the recipient. Documents may also be served by leaving a copy at the domicile or residence of the recipient in the care of a reasonable person who resides there. Documents may be served on a legal person (corporation) at its head office, at one of its establishments in Quebec or at the establishment of its agent in the district where the cause of action arose, speaking to one of its senior officers or to a person in charge of the said establishment (s. 120 et seq. of the Code of Civil Procedure).*

*Notification may be made by delivering the notice to the person to be notified and obtaining a receipt therefor or by registered or certified mail. Notification may be made by regular mail or by any other means of communication where the context does not require the sender to obtain proof of sending (s. 146.1 to 146.3 of the Code of Civil Procedure).*

**Central Authority of Alberta:**

*Alberta's Rules of Court state personal service on an individual. Personal service on a corporation is effected by leaving a copy with someone who works with the corporation. See copy of Alberta Rules of Court 390/68*

**Central Authority of British Columbia:**

*Personal service, service on a corporate officer or on an officer of an unincorporated association, or service on a corporation at the registered office of the corporation, pursuant to Rules 11 and 12 and the Business Corporations Act.*

**Central Authority of Manitoba:**

*Under Manitoba's Queen's Bench Rules, an originating process must be served personally. For entities, service must be made on specified representatives. After the originating process has been filed and served, subsequent documents can be served by a variety of alternatives to personal service, including acceptance by lawyer, and service by registered mail with acknowledgment of receipt.*

**Central Authority of Prince Edward Island:**

*Personal service, service on a corporate officer, director or agent of the corporation, or with a person at any place of business of the corporation who appears to be in control or management of the place of business, pursuant to Rule 16.02(1)(c).*

**Central Authority of Ontario:**

*In Ontario we serve by personal delivery by any person. The Central Authority generally uses a public officer to make service.*

*Service on a corporation is normally done on an officer or director of the corporation.*

*With leave of the court, alternative or indirect methods may be used, including publication in local newspapers.*

- (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 29) c. (ii) and (iii)). Please also indicate your State's reasons behind any such default choice:

**Central Authority of Quebec:**

*The Central Authority of Quebec proceeds with service in accordance with the method of personal service by bailiff because it is the method generally used in the territory.*

*For notification, the Central Authority of Quebec uses the mail (certified mail, with proof of mailing).*

**Central Authority of Alberta:**

*Personal service only (see above). Serving by post or leaving documents with a friend or neighbour is not considered "good" service.*

**Central Authority of British Columbia:**

*Personal service, or sub service at residential address, or personal service on corporation. All documents are served by a sheriff or deputy sheriff.*

**Central Authority of Manitoba:**

*Personal service.*

**Central Authority of Prince Edward Island:**

*Personal service, or sub service at residential address, or personal service on corporation. All documents are served by a sheriff or deputy sheriff.*

**Central Authority of Ontario:**

*We serve by having a public officer deliver the documents in person..*

- 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:

*N/A*

- (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:

**Central Authority of Quebec:**

*There have not been any such requests.*

**Central Authority of Alberta:**

*After numerous attempts to effect personal service, we were requested to tape the documents to the door of the residence, take a picture and include the picture with the completed Certificate detailing the unordinary service.*

**Central Authority of British Columbia:**

*Occasionally specific requests for personal service only, with no option for sub service.*

**Central Authority of Manitoba:**

*In one exceptional situation, Manitoba effected service on a corporation's lawyer of record, rather than directors or officers who could not be located. This was done after consulting with the requesting authority.*

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)?

**Central Authority of Quebec:**

- YES – please describe how service of documents via informal delivery is made in your State (*art. 5(2)*):  
 NO

**Central Authority of Alberta:**

- YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):  
 NO

**Central Authority of British Columbia:**

- YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):  
*By mail, only when contact with recipient has been made and they agree to accept the documents.*  
 NO

**Central Authority of Manitoba:**

- YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):
- NO

**Central Authority of Prince Edward Island:**

- YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):
- NO

**Central Authority of Ontario:**

- YES – please describe how service of documents via informal delivery is made in your State (Art. 5(2)):
- The law allows a party to accept service of documents but does not provide any formal process for this to happen. Acceptance of service would be a matter of proof, an element of showing that service had been made. Without knowing that there would be consent, we would not count on any such thing; we would have our agent make personal service in the usual way.*
- 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?

**Central Authority of Quebec:**

*Not applicable.*

**Central Authority of Alberta:**

- YES – please specify if your State imposes any additional requirements before such formal service will be attempted (*e.g.*, a translation):
- NO

**Central Authority of British Columbia:**

- YES – please specify if your State imposes any additional requirements before such formal service will be attempted (*e.g.*, a translation):
- NO
- We always use personal service. Informal service (by mail) was only attempted 2 times in 2007, both successful.*

**Central Authority of Manitoba:**

*n/a*

**Central Authority of Prince Edward Island:**

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

translation):

NO

*We always use personal service.*

**Central Authority of Ontario:**

*We would not attempt informal service.*

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

30) 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:

*Please see information below and also the table with information on the Canadian system.*

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:

NO

**Central Authority of Quebec:**

YES – please indicate why:

*Where it is a proceeding introductive of suit, subject to the Proviso below, unless there is insufficient time before the hearing to rectify the situation, in which case service can be effected.*

NO

*For Quebec, translation will be required in all cases where the recipient does not understand the language in which the document is written. All proceedings that commence actions must be translated. Summary translation of other types of documents to be served is acceptable if the recipient agrees. Translation is to be done into the French language; however, the Quebec Central Authority may, upon request, allow a translation into English on condition that the recipient understands that language. (Proviso).*

**Central Authority of Alberta:**

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

NO

**Central Authority of British Columbia:**

*English*

**Central Authority of Manitoba:**

- YES – please specify if your State imposes any additional requirements before such formal service will be attempted (*e.g.*, a translation):
- NO

**Central Authority of Prince Edward Island:**

*English*

**Central Authority of Ontario:**

- YES – please specify if your State imposes any additional requirements before such formal service will be attempted (*e.g.*, a translation):
- The Central Authority does not have the right to waive the language requirements of our rules of civil procedure based on facts known or thought to be known by the Central Authority.*
- 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:
- NO

**Central Authority of Quebec:**

- YES – please indicate why:
- Where it is a proceeding introductive of suit, subject to the aforestated Proviso, unless there is insufficient time before the hearing to rectify the situation, in which case service can be effected.*
- NO

**Central Authority of Alberta:**

- YES – please indicate why:
- See above.*
- NO

**Central Authority of British Columbia:**

- YES – please indicate why:
- NO

**Central Authority of Manitoba:**

- YES – please indicate why:
- NO

**Central Authority of Prince Edward Island:**

- YES – please indicate why:
- NO



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

N/A

31) 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?

**Central Authority of Quebec:**

The domestic law of the requesting State

The domestic law of the requested State

Both laws

Please specify / comment if needed:

*The translation should comply with the requirements of the Requesting State, as procedure is governed by the law of the court seized of the matter (a. 3132 of the Civil Code) and the requested State (law of the place of execution). However, in practice, the requested State is only able to verify compliance with the requirements of its own legislation, the law of the place of execution.*

**Central Authority of Alberta:**

The domestic law of the requesting State

The domestic law of the requested State

Both laws

Please specify / comment if needed:

*Canada declared that documents have to be translated in the official language, French or English, of the Province where service is to be made.*

**Central Authority of British Columbia:**

The domestic law of the requesting State

The domestic law of the requested State

Both laws

Please specify / comment if needed:

**Central Authority of Manitoba:**

*No formal position has been taken.*

**Central Authority of Prince Edward Island:**

The domestic law of the requesting State

The domestic law of the requested State

Both laws

Please specify / comment if needed:

*Canada declared that documents have to be translated in the official language, French or English, of the Province where service is to be made.*

**Central Authority of Ontario:**

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)**

32) 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.))

**Central Authority of Quebec:**

- 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.)):

*For the service of judicial or extrajudicial documents the bailiff is entitled to a fee of 50 Canadian dollars (per recipient), pursuant to section 7.1 of the Tariff of fees and transportation expenses of bailiffs (H-4, r.3). This amount is used to defray the costs of service for the bailiff in Quebec who will be serving the documents.*

*Payment of the service costs must be made by cheque drawn on a bank in Canada or by travellers cheque, payable to the "Ministre des Finances du Québec".*

*Payment of the CAN\$50 fee must accompany each request for service. No request will be processed unless payment of the bailiff's fees is received. Payment by electronic transfer is not accepted; this is an administrative and technical issue, not a legal one.*

*In regard to notification, no costs are charged to forwarding authorities for the **notification** of documents by certified mail.*

**Central Authority of Alberta:**

- 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.))

**Central Authority of British Columbia:**

- 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.))

*We will effect service regardless of prepayment. If request is not prepaid, we will invoice the applicant after service is carried out. We accept cheque, cash and money orders/drafts; no electronic transfers.*

#### **Central Authority of Manitoba:**

*The applicant must pay \$50 for sheriff's services. If prepayment is not made, service is effected with a follow-up letter asking for payment. Payment is to the Minister of Finance, by cheque, money order or electronic transfer.*

#### **Central Authority of Prince Edward Island:**

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.))

*We will affect service regardless of prepayment. If request is not prepaid, we will invoice the applicant after service is carried out. We accept cheque, cash and money orders/drafts; no electronic transfers.*

#### **Central Authority of Ontario:**

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 change since 2003.*

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.))

#### **Central Authority of Quebec:**

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.):

*We have not received any such requests (see answer to question 29(b)(iii) but if the matter were to arise, the costs would be borne by the requesting State.*

#### Central Authority of Alberta:

- 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.))
- *Receipt of the \$50.00 service fee is the preferred method, however occasions arise when the Requesting State must be invoiced.*
  - *Service fee is **always** reimbursed to the Minister of Finance and Enterprise in Alberta. It is **never** paid directly to a judicial officer, civil enforcement agency/bailiff or other person. The funds are deposited into our Trust Account and a cheque is made payable to the particular Civil Enforcement Agency serving the documents.*
  - *Reimbursement is usually by cheque, either drawn on a Canadian or American bank. Cheques drawn on a "foreign" bank are not accepted. Visa is the preferred method of payment for "foreign" countries. The Visa card can be faxed or scanned. Occasionally receive cash. Alberta is not set up to receive funds electronically.*

#### Central Authority of British Columbia:

- 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.))

*We will affect service regardless of prepayment. If request is not prepaid, we will invoice the applicant after service is carried out. We accept cheque, cash and money orders/drafts; no electronic transfers.*

#### Central Authority of Manitoba:

*The applicant must pay \$50 for sheriff's services. If prepayment is not made, service is effected with a follow-up letter asking for payment.*

#### Central Authority of Prince Edward Island:

- 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.))

- *Receipt of the \$50.00 service fee is the preferred method; however occasions arise when the Requesting State must be invoiced.*
- *Service fee is **always** reimbursed to the Provincial Treasurer of Prince Edward Island. It is **never** paid directly to a judicial officer, civil enforcement agency or other person.*
- *Reimbursement is usually by cheque, money order/drafts; no electronic transfers.*

**Central Authority of Ontario:**

- 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.))

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

- (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.))

**Central Authority of Quebec:**

*Not applicable*

**Central Authority of Alberta:**

- 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.))

*See above*

**Central Authority of British Columbia:**

- 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.))

*We will effect service regardless of prepayment. If request is not prepaid, we will invoice the applicant after service is carried out. We accept cheque, cash and money orders/drafts; no electronic transfers.*

**Central Authority of Manitoba:**

*The applicant would have to pay \$50 if sheriff's services were used for delivery. If prepayment were not made, service would be effected with a follow-up letter asking for payment.*

**Central Authority of Prince Edward Island:**

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.))

*See above*

**Central Authority of Ontario:**

*Not applicable*

**E. Modern Technologies**

33) 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:

**Central Authority of Quebec:**

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:

*In practice, according to the information obtained, only the fax (as a "technology") is currently used for receiving or sending by the Central Authority of Quebec.*

*However, from a legal point of view in Quebec, in regard to service, it is possible:*

- *Pursuant to section 82.1 CCP, for a party or his attorney to send a written proceeding, an exhibit or any other document to a bailiff, an advocate or a notary by fax machine. The chosen correspondent prepares copies of the facsimile of the*

*document and an attestation of their authenticity; the copies are presumed to be originals for the purposes of notification, service, filing at the office of the court or evidence. The signature of the advocate, notary or court bailiff is sufficient to certify the authenticity of the document;*

- *Pursuant to section 122 CCP, to serve by registered or certified mail where there is neither sheriff nor bailiff able to act within a radius of 50 kilometres;*
- *Pursuant to section 138 CCP, The judge or clerk may, on motion, if the circumstances so require, authorize a mode of service other than those provided by sections 120, 122, 123 and 130, particularly by public notice or by mail, unless such last mode is already authorized by the said articles:*
  - *Service by public notice is effected in accordance with the terms of section 139 CCP, which provides inter alia that unless the judge or the clerk decides otherwise, the order is published only once; the publication is made in a newspaper, designated by the judge or clerk, distributed in the locality of the last known address of the defendant or, if no newspaper is distributed in that locality, in the locality where he is required to appear;*
  - *Service by mail is made by mailing a copy of the proceeding by registered or certified mail to the party at the last known address of his residence or place of work.*

*Further, section 140.1 CCP states the service of a written proceeding, an exhibit or any other document on the attorney of a party may, without the authorization of the judge or clerk, be effected by transmitting to him a facsimile of the proceeding, exhibit or other document by fax machine.*

*From a legal point of view, in Quebec, with regard to notification, it is possible:*

- *Pursuant to section 146.2 CCP for notification to be effected by sending the original, a certified copy or an abstract of the act, document or notice by registered or certified mail to the last known address of the residence or place of work of the person to be notified.*
- *Pursuant to section 146.3 CCP, for notification to be effected, unless prescribed otherwise, by notification of the original or of a copy or abstract of the act, document or notice by regular mail or by any other means of communication where the context does not require the sender to obtain proof of sending. If the circumstances so require, the judge may order the publication by any other appropriate means, in particular by letter, or by an advertisement on the radio or television; he shall then determine the mode of proof of publication.*

*In principle, considering that in Quebec service is made by delivering a copy to the party in person, it cannot be effected through the use of modern technology. However, in cases where personal delivery is not required, the Act to establish a Legal framework for information*

technology (R.S.Q., c. C-1.1) (AELFIT)<sup>8</sup> would allow the use of such technology.

The AELFIT sets out the general principle of the freedom of individuals in regard to the choice of medium used to file documents. This freedom of choice is tempered by the obligation to respect the rules of law. Similarly, the legal value of a document is neither increased nor diminished solely because of the medium chosen. Indeed, this principle is established at section 5 of the AELFIT. Several sections of the AELFIT and articles of the Civil Code of Québec also delimit the scope of the principle. Thus, for example, section 29 states that:

*“A person may not be required to acquire a specific medium or technology to transmit or receive a document, unless such requirement is expressly provided by law or by an agreement.”*

Accordingly, the AELFIT sets out, subject to certain limitations, equivalents for:

- o The facsimile – section 74 AELFIT:

*“74. A reference in the law to the possibility of using one or more specific means of transmission such as sending by mail, by messenger, by cablegram or telegram, by fax, by telematic, computerized or electronic means, by way of telecommunication, teletransmission, fibre optics or any other information technology, does not preclude the use of another means of transmission appropriate to the medium of the document to be sent, provided the legislative provision does not require the exclusive use of a specific means of transmission.”*

- o Certified or registered mail - section 28 AELFIT;
- o mail – section 28 AELFIT:

*“28. A document may be transmitted, sent or forwarded by any means appropriate to the medium, unless the exclusive use of a specific means of transmission is required by law.*

*Where the law requires the use of mail, the requirement may be met by means of the technology appropriate to the medium of the document. Similarly, where the law requires the use of certified or registered mail, the requirement may be met, in the case of a technology-based document, by means of an acknowledgement of receipt in the appropriate medium signed by the recipient, or by any other agreed method.*

*Where the law requires the transmission or reception of a document at a specific address, the address shall comprise, in the case of a technology-based*

<sup>8</sup> Available at the following Web address:

[http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C\\_1\\_1/C1\\_1.html](http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C_1_1/C1_1.html) (Page visited on September 22, 2008)



*document, an identifier specific to the location where the recipient may receive communication of such document.”*

*With regard to public notice, the National Assembly of Québec is currently reviewing Bill 65 entitled An Act respecting the application of the Act to establish a legal framework for information technology,<sup>9</sup> which, if it is adopted will provide, through section 70.8 (section 5 of the Bill), the option of fulfilling this obligation through technological means. This section reads as follows:*

*“70.8. No legislative provision that creates an obligation to inform by requiring that information be disseminated, distributed, released, transmitted, published or made known or public in any other way in a territory, including that of Québec, a metropolitan community, an urban agglomeration, a municipality, a locality or a borough, shall be construed as implying an obligation to use a paper document.*

*However, to fulfil the obligation to provide information in a territory using a technology-based document that is accessible or available at a technological address, the following conditions must be met:*

*(1) for information intended for a community as a whole, the appropriate means for accessing the document and examining it at a technological address must be available in the community and their existence made known;*

*(2) for information intended for a category of persons, the appropriate means must be available as provided in subparagraph 1, or those persons must be required by law or under an agreement to acquire the appropriate means for receiving or accessing a technology-based document; and;*

*(3) for information intended for a person identified by the person's relationship to a territory or by the fact that the person may be in that territory or may be contacted there, the person must be able to access and examine the document at a technological address from a place situated in that territory, or the person must have publicly stated that the document will be received or examined at a technological address.”*

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<sup>9</sup> Available at the following Web address: <http://www.assnat.qc.ca/eng/38legislature1/Projets-loi/Publics/07-a065.htm> (Page visited on September 22, 2008)

**Central Authority of Alberta:**

- 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:  
*Must receive the **original** and one copy.*

**Central Authority of British Columbia:**

- 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.): By fax, I understand.
- NO – please explain / specify:

**Central Authority of Manitoba:**

*Law in Manitoba is silent on this point. In practice, requests are never received by fax.*

**Central Authority of Prince Edward Island:**

- 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:  
*Must receive the **original** and one copy.*

**Central Authority of Ontario:**

- 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:  
Our law is silent on such questions. We have a broad range of forwarding authorities that might choose to accept documents sent to them electronically.
- 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:

**Central Authority of Quebec:**

- 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.).

*See our answer at paragraph (a).*

- NO – please explain/specify:

**Central Authority of Alberta:**

- 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:

*Must mail/courier the **original** and one copy.*

**Central Authority of British Columbia:**

- 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.). By fax, I understand

- NO – please explain / specify:

**Central Authority of Manitoba:**

*The law in Manitoba is silent on this point.*

**Central Authority of Prince Edward Island:**

- 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:

*Must mail/courier the **original** and one copy.*

**Central Authority of Ontario:**

- 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:

*Law is silent on that point – but normally that would be a matter for the law of the requested State.*

- 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:

**Central Authority of Quebec:**

- 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).  
*See our answer at paragraph (a).*
- NO – please explain / specify:

**Central Authority of Alberta:**

- 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:  
*Must mail/courier the **original** and one copy.*

**Central Authority of British Columbia:**

- 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). By fax, I understand.  
*Virtually all requests are received by mail or courier, but we will accept faxes or email PDFs)*
- NO – please explain / specify:

**Central Authority of Manitoba:**

*The law in Manitoba is silent on this point. In practice, requests are never received by fax.*

**Central Authority of Prince Edward Island:**

- 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:  
*Must mail/courier the **original** and one copy.*

**Central Authority of Ontario:**

- 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:

*Our law is silent on the point. We would not serve a document except in paper form and have no means to do so.*

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:

#### Central Authority of Quebec:

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):

*See our answer at paragraph (a). Note that the Central Authority of Quebec sends the certificate by facsimile and the original by mail.*

NO – please explain/specify:

#### Central Authority of Alberta:

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:

*Certificate of execution may be faxed, e-mailed as a temporary measure, but must mail/courier the **original**.*

#### Central Authority of British Columbia:

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): By fax, I understand.

*We often send completed Certificates by fax or emailed PDFs, then mail the original to applicant*

NO – please explain / specify:

#### Central Authority of Manitoba:

*The law in Manitoba is silent on this point. In practice, certificates of execution are always sent by mail.*

#### Central Authority of Prince Edward Island:

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:

*Certificate of execution may be faxed, e-mailed as a temporary measure, but must mail/courier the **original**.*

#### Central Authority of Ontario:

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): By fax, I understand.

*But this would depend on the law of the requesting state, as to whether it would allow the applicant to use such a certificate. Ontario is not currently set up to provide Convention-based information by electronic means.*

NO – please explain / specify

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:

#### Central Authority of Quebec:

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): *See our answer at paragraph (a).*

NO – please explain / specify:

#### Central Authority of Alberta:

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:

*Original Certificate of Execution is required.*

#### Central Authority of British Columbia:

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): By fax, I understand

NO – please explain / specify:

#### Central Authority of Manitoba:

*The law in Manitoba is silent on this point.*

**Central Authority of Prince Edward Island:**

- 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:  
*Original Certificate of Execution is required.*

**Central Authority of Ontario:**

- 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):  
*The law of evidence is in evolution. Normally faxed documents are admissible. Other electronic records are routinely admitted, but might be subject to challenges for authentication.*
- NO – please explain / specify:

**IV. Alternative Channels of Transmission (Arts 8, 9, 10)****A. Translation requirements**

- 34) 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?
- 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:

**Central Authority of Quebec:**

- 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:

*According to section 136 of the Code of Civil Procedure, the Central Authority of Quebec, on a request made through diplomatic channels, may direct a bailiff to serve upon a person in Québec any proceeding issued by a tribunal foreign to Canada. Such service is made by leaving for the party in the ordinary way a true copy of such proceeding, certified by an officer of the court by which such proceeding was issued. If such copy is not drawn in the French or English language, a certified translation thereof must be annexed thereto. The return of service also is made in the ordinary way, but with mention where necessary of the fact that a translation was annexed to the copy served.*

**Central Authority of Alberta:**

- 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:

**Central Authority of British Columbia:**

- 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:

**Central Authority of Manitoba:**

- 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:

**Central Authority of Prince Edward Island:**

- 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:

**Central Authority of Ontario:**

- 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:
- Our law does not distinguish between methods of transmission in its language requirements.*

**B. Model Form**

- 35) 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](http://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?



**Central Authority of Quebec:**

- YES  
 NO – why not?

*As the Central Authority of Quebec does not act as a requesting or forwarding authority, we do not have any information on this subject.*

**Central Authority of British Columbia:**

- YES  
 NO – why not?

**Central Authority of Manitoba:**

*Do not know.*

**Central Authority of Prince Edward Island:**

- YES  
 NO – why not?

**Central Authority of Ontario:**

*We have no information on the practices of forwarding authorities.*

- 36) 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*)?
- 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

**Central Authority of Quebec:**

*As the Central Authority of Quebec does not act in this case as a requested authority, we do not have any information on this subject.*

**Central Authority of Alberta:**

- 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

**Central Authority of British Columbia:**

- 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

**Central Authority of Prince Edward Island:**

- 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

**Central Authority of Ontario:**

- 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:  
*We would return the certificate in any appropriate case. We do not have much experience with requests for service by alternative means.*
- 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**

37) 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?

- 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):
  - b. in which States these diplomatic and consular agents were based:
  - c. the average time taken between the transmission of the documents for service and the execution of service:
  - d. whether your State considers this channel to be efficient and effective:
    - YES
    - 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?

**Central Authority of Prince Edward Island:**

NO – why not?

*PEI has not had any service abroad.*

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):
- b. in which States these diplomatic and consular agents were based:
- c. the average time taken between the transmission of the documents for service and the execution of service:
- d. whether your State considers this channel to be efficient and effective:  
 YES  
 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?

**Central Authority of Ontario:**

NO – why not?

*We have no information about practices involving service of Ontario documents outside Canada.*

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):
- b. in which States these diplomatic and consular agents were based:
- c. the average time taken between the transmission of the documents for service and the execution of service:
- d. whether your State considers this channel to be efficient and effective:
  - YES
  - 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?

**Article 9 – Indirect Channels**

38) 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?

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?

**Central Authority of Prince Edward Island:**

NO – why not?

*PEI has not had any service abroad.*

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?

**Central Authority of Ontario:**

NO – why not?

*We have no information about practices involving service of Ontario documents outside Canada.*

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?

39) 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):

**Central Authority of Prince Edward Island:**

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):

**Central Authority of Ontario:**

NO

*We have no information about practices involving service of Ontario documents outside Canada*

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):

40) 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?

**Central Authority of Ontario:**

*We have no information about practices involving service of Ontario documents outside Canada.*

**D. Article 10 a) – Postal Channel**

41) 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:

**Central Authority of Alberta:**

*Alberta Rules of Court state “personal” service.*

**Central Authority of Prince Edward Island:**

*PEI Rules of Civil Procedure state “personal” service.*

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 45).*

**Central Authority of Alberta:**

NO

YES – please explain:

**Central Authority of Prince Edward Island:**

NO

YES – please explain:

**Central Authority of Ontario:**

*Postal service would not generally be effective service in a proceeding in an Ontario court.*

- 42) Has the interpretation and application of Article 10 a) given rise to any difficulties in your State?  
 YES – please specify / comment:  
 NO
- 43) If possible, please comment upon how frequently judicial documents are sent for service upon persons abroad, by parties in your State, via postal channels:

**Central Authority of Quebec:**

*As the Central Authority of Quebec does not intervene where documents are directly sent via postal channels, we do not have information on this question.*

**Central Authority of Alberta:**

*For reasons previously stated, I would say never.*

**Central Authority of Ontario:**

*We have no information about practices involving service of Ontario documents outside Canada.*

- 44) 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?

**Central Authority of Quebec:**

*As the Central Authority of Quebec does not intervene where documents are directly sent via postal channels, we do not have information on this question.*

**Central Authority of Alberta:**

- YES  
 NO – why not?

**Central Authority of British Columbia:**

- YES  
 NO – why not?

**Central Authority of Manitoba:**

- YES  
 NO – why not?

**Central Authority of Prince Edward Island:**

- YES  
 NO – why not?

**Central Authority of Ontario:**

- YES  
 NO – why not?

*Such a practice might be more effective in law than general postal delivery, because it might provide evidence of direct in-person service.*

*We have no information about practices involving service of Ontario documents outside Canada*

- 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?

**Central Authority of Quebec:**

YES,

*In regard to notification, yes, and only with the authorization of the judge or the clerk in regard to service.*

NO – why not?

**Central Authority of Alberta:**

YES

NO – why not?

**Central Authority of British Columbia:**

YES

NO – why not?

**Central Authority of Manitoba:**

YES

NO – why not?

**Central Authority of Prince Edward Island:**

YES

NO – why not?

**Central Authority of Ontario:**

YES,

*Such service would be permitted. Whether it is legally effective is a matter for the law of the country of origin.*

NO – why not?



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

- 45) 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:

*If your State does hold an opposition, please go to Question 47).*

- 46) 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:

**Central Authority of Quebec:**

- Attorneys or solicitors
- Bailiffs
- Huissiers* (origin and destination)
- Process servers (*agents de notification*)
- Court officials
- Notaries
- Officials of the executive branch
- Other – please specify

**Central Authority of Alberta:**

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

**Central Authority of British Columbia:**

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

**Central Authority of Manitoba:**

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

**Central Authority of Prince Edward Island:**

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

**Central Authority of Ontario:**

*This is not a concept recognized by our law in this context.*

- 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.

**Central Authority of Quebec:**

*A Quebec bailiff (huissier) may address a bailiff (huissier) of the requested State and vice versa.*

**Central Authority of Alberta:**

*All requests are made through the Central Authority of Alberta., they do not receive documents directly from abroad. These would apply to State of Destination.*

*Unsure of the channel of transmission regarding State of Origin.*

**Central Authority of Prince Edward Island:**

*All requests are made through the Central Authority of PEI, they do not receive documents directly from abroad. These would apply to State of Destination.*

*Unsure of the channel of transmission regarding State of Origin.*

**Central Authority of Ontario:**

*We have no information about practices involving service of Ontario documents outside Canada.*

- 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?

**Central Authority of Quebec:**

*When there is a transmission from bailiff to bailiff, the Tariff of fees and transportation expenses of bailiffs, R.R.Q., c.H-4, r.3, is definitely applied by bailiffs in Quebec.*

**Central Authority of Alberta:**

*\$50.00 Cdn. Service Fee would apply.*

**Central Authority of Prince Edward Island:**

*\$50.00 Cdn. Service Fee would apply.*

**Central Authority of Ontario:**

*We have no information about practices involving service of Ontario documents outside Canada or service of foreign documents within Ontario if they are not sent through the Central Authority.*

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

**Central Authority of Alberta:**

*State of Destination averages 9 per month.*

**Central Authority of Prince Edward Island:**

*State of Destination averages 2 per year.*

**Central Authority of Ontario:**

*We have no such information.*

- 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?

**Central Authority of Quebec:**

[x] YES

[ ] NO – why not?

**Central Authority of Alberta:**

[x] YES

[ ] NO – why not?

**Central Authority of Manitoba:**

*Do not know.*

**Central Authority of Prince Edward Island:**

[ x] YES

NO – why not?

**Central Authority of Ontario:**

*That is a question for the law of the country whose court proceeding is in question. The ability to serve electronically is limited in Ontario and may not be done in any event to initiate a legal proceeding.*

**F. Article 10 c) – Interested Persons**

47) 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 49).*

48) 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):

**Central Authority of Quebec:**

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

**Central Authority of Alberta:**

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

**Central Authority of British Columbia:**

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

**Central Authority of Manitoba:**

- Attorneys or solicitors
- Bailiffs
- Huissiers*
- Process servers
- Court officials *i.e.: sheriffs*

- Notaries
- Officials of the executive branch
- Other – please specify

**Central Authority of Prince Edward Island:**

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

**Central Authority of Ontario:**

*We do not make such distinctions in our law.*

- 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?

**Central Authority of Quebec:**

*We do not have any information on this subject.*

**Central Authority of Alberta:**

*Law Society members (lawyers) may send them directly. All others should go through the Central Authority.*

**Central Authority of Prince Edward Island:**

*Law Society members (lawyers) may send them directly. All others should go through the Central Authority.*

**Central Authority of Ontario:**

*We have no information about practices involving service of Ontario documents outside Canada.*

- 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?

**Central Authority of Quebec:**

*We do not have any information on this subject.*

**Central Authority of Alberta:**

*Receiving: \$50.00*  
*Sending: Follow rules of the State of Destination*

**Central Authority of Prince Edward Island:**

*Receiving: \$50.00*  
*Sending: Follow rules of the State of Destination*

**Central Authority of Ontario:**

*We have no relevant information.*

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

**Central Authority of Quebec:**

*We do not have any information on this subject.*

**Central Authority of Alberta:**

*Average 9 services per month as State of destination.*

**Central Authority of Prince Edward Island:**

*Average 2 services per year as State of destination.*

**Central Authority of Ontario:**

*We have no relevant information.*

- 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?

**Central Authority of Quebec:**

- YES  
 NO – why not?

**Central Authority of Alberta:**

- YES  
 NO – why not?  
*See previous responses to similar questions.*

**Central Authority of British Columbia:**

- YES  
 NO – why not?

**Central Authority of Prince Edward Island:**

- YES  
 NO – why not?

**Central Authority of Ontario:**

*That is a question for the law of the country whose court proceeding is in question. The ability to serve electronically is limited in Ontario and may not be done in any event to initiate a legal proceeding.*

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

- 49) 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:
- [x] 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:
- [x] NO

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

- 50) 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:

### Central Authority of Quebec:

- [x] 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:

### Central Authority of Alberta:

- [x] 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:

### Central Authority of Manitoba:

*Manitoba's Queen's Bench Rules (Rule 19.01(1)) only permit a plaintiff to have a defendant noted in default if "proof of service" of the claim is provided. If personal service cannot be proven, then certain alternatives to personal service are permissible. However, only a judge can dispense of the requirement for service in any given case, based on circumstances that satisfy the judge.*

### Central Authority of Prince Edward Island:

- [ x ] 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:

**Central Authority of Ontario:**

*Our courts would pay more attention to whether reasonable efforts had been made to serve than to the mere fact of a certificate regardless of its content. They are unlikely to consider a 'no service' certificate to be no certificate, for the purpose of establishing the right under the Convention to give judgment. There is no jurisprudence in support of that statement in the context of the Convention.*

- 51) 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:

**Central Authority of Quebec:**

YES

NO – please indicate the grounds upon which your State would refuse to enforce a judgment in these circumstances:

*According to article 3155(3) of the Civil Code, "A Québec authority recognizes and, where applicable, declares enforceable any decision rendered outside Québec except in the following cases: ... 3° the decision was rendered in contravention of the fundamental principles of procedure; ...."*

*Also of note is article 3156 of the Civil Code, which provides "A decision rendered by default may not be recognized or declared enforceable unless the plaintiff proves that the act of procedure initiating the proceedings was duly served on the defaulting party in accordance with the law of the place where the decision was rendered.*

*However, the authority may refuse recognition or enforcement if the defaulting party proves that, owing to the circumstances, he was unable to learn of the act of procedure initiating the proceedings or was not given sufficient time to offer his defence."*

*The case law has not yet addressed this specific issue of refusal to enforce a foreign judgment when service has been effected in accordance with the modes provided in the Convention.*

**Central Authority of British Columbia:**

YES

NO – please indicate the grounds upon which your State would refuse to enforce a judgment in these circumstances:

**Central Authority of Prince Edward Island:**

YES

NO – please indicate the grounds upon which your State would refuse to enforce a judgment in these circumstances:

**Central Authority of Ontario:**

YES – probably

NO – please indicate the grounds upon which your State would refuse to enforce a judgment in these circumstances:



- 52) 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:
- 53) 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))
- 54) 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**

- 55) 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)?

**Central Authority of Ontario:**

*We would rely on the date stated on the certificate unless better evidence of a different date were available.*

- (ii) when one of the alternative channels of transmission has been used?

**Central Authority of Quebec:**

*In either case, for transmissions abroad, Quebec law makes no specific provision for determining the date of service for the plaintiff.*

**Central Authority of Manitoba:**

*For personal service, the date of service usually is the date on which it actually occurs. It is only for alternatives to personal service where effective dates tend to be used.*

**Central Authority of Prince Edward Island:**

*Sheriff or Deputy Sheriff swears affidavit of Service*

**Central Authority of Ontario:**

*We would rely on the best evidence of actual date of service.*

- 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

**Central Authority of Quebec:**

- YES – please specify:  
 NO

*Section 143 CCP provides however that the judge or clerk may order the plaintiff who delays having a motion to institute proceedings served to do so within the time fixed under pain of annulment of the motion to institute proceedings.*

**Central Authority of Alberta:**

- YES – please specify:  
 NO

**Central Authority of British Columbia:**

- YES – please specify:  
*Rules of Court Rule 13(6)*  
 NO

**Central Authority of Manitoba:**

YES – please specify:

*Section 3.02(1) of the Queen's Bench Rules gives the court authority to extend or abridge any time requirement set elsewhere in the Rules – including the usual six-month rule for serving an originating process.*

NO

**Central Authority of Prince Edward Island:**

YES – please specify:

*Rules of Civil Procedure*

NO

**Central Authority of Ontario:**

YES – please specify:

*The Rules of Civil Procedure generally do not impose a time limit for service. They provide for a time limit for responding to the documents served. Statements of defence where defendants are served outside North America may be filed within 60 days; the normal period is 20 days. (Rule 18.01)*

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:

NO

**PART THREE – OTHER OPERATIONAL ISSUES****I. Model Form annexed to the Service Convention****A. Fillable PDF versions of the Model Form**

- 56) 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:

**B. Request Form (Art. 3)**

- 57) 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:

**Central Authority of Quebec:**

- 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:

**Central Authority of Alberta:**

- 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:

**Central Authority of British Columbia:**

- 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:

**Central Authority of Manitoba:**

*This is not an issue that has been studied in Manitoba. Generally, it is assumed that the person who has filled out the form has correctly identified the applicant as required under the Convention.*

**Central Authority of Prince Edward Island:**

- 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:

**Central Authority of Ontario:**

- 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:
- This follows from the wording of the form – but it goes against our usual format for judicial documents that are drawn up in the name of the parties not of their representatives (and in Canada, the parties' lawyer is likely to be the transmitting authority.)*

58) 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?

**Central Authority of Quebec:**

- YES
- NO – why not?

*As the Central Authority of Quebec is not involved in the processing of these requests, we do not have any information regarding this question.*

**Central Authority of Alberta:**

- YES
- NO – why not?

**Central Authority of British Columbia:**

- YES
- NO – why not?

**Central Authority of Manitoba:**

*Do not know what the practice is among applicants in Manitoba.*

**Central Authority of Prince Edward Island:**

- YES
- NO – why not?

**Central Authority of Ontario:**

- YES
- NO – why not?

*We do not transmit documents for service and have no knowledge of the practice of those who do.*

**C. Certificate (Art. 6)**

59) 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?

**Central Authority of Quebec:**

- YES
- 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 court where the proceedings are taking place in the requesting State
  - Other – please specify:

**Central Authority of Alberta:**

- YES
- 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:

**Central Authority of British Columbia:**

- YES
- 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:

**Central Authority of Manitoba:**

- YES
- 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:

**Central Authority of Prince Edward Island:**

- YES
- 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:

**Central Authority of Ontario:**

*We are not engaged in the transmission of documents outside Canada for service.*

**II. E-service****A. In strictly domestic situations**

60) 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:
  - 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:

**Central Authority of Quebec:**

- NO – are there plans to introduce service by using such technologies?
- YES – please specify: ***see the answer to question 33(a).***
  - NO
- YES – please specify:
- a. the legal framework and practical circumstances in which such technologies may be used (please describe for each if necessary): ***see the answer to question 33(a).***
  - 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:

**Central Authority of Alberta:**

- NO – are there plans to introduce service by using such technologies?  
 YES – please specify:  
 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:

**Central Authority of British Columbia:**

- NO – are there plans to introduce service by using such technologies?  
 YES – please specify:  
 NO
- YES – please specify: By fax, pursuant to the Rules of Court, Rule 11, but only where the address for delivery given by the litigant includes a fax number.
- 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:

**Central Authority of Manitoba:**

- NO – are there plans to introduce service by using such technologies?  
 YES – please specify:  
 NO
- YES – please specify: By fax, pursuant to the Rules of Court, Rule 11, but only where the address for delivery given by the litigant includes a fax number.
- a. the legal framework and practical circumstances in which such technologies may be used (please describe for each if necessary):  
*Yes, by fax and e-mail, but only for documents other than originating documents.*
  - 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:  
*The rules do not compel use of secured transmissions.*
  - c. if and how service upon the addressee is acknowledged or proven in such circumstances:  
*If service needs to be proven, it is done by declaration in an affidavit.*



**Central Authority of Prince Edward Island:**

- NO – are there plans to introduce service by using such technologies?  
 YES – please specify:  
 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:

**Central Authority of Ontario:**

- NO – are there plans to introduce service by using such technologies?  
 YES – please specify:  
 NO
- YES – please specify:
- a. the legal framework and practical circumstances in which such technologies may be used (please describe for each if necessary):  
*For service on solicitor of record once the proceeding has been commenced. Electronic transmission requires consent of the recipient. See Rule 16.05.*
  - 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:  
*not specified*
  - c. if and how service upon the addressee is acknowledged or proven in such circumstances:  
*express acceptance is needed for email service.*

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

- 61) 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

**Central Authority of Quebec:** 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):

*Service by facsimile (abroad) has already been authorized pursuant to section 138 CCP.*

- 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:

*We do not have any information regarding this subject.*

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

*Section 146.0.1 CCP provides that service by fax machine may be proved by means of a transmission slip or, failing that, by means of an affidavit from the person who effected the service. Further, section 146.0.2 CCP provides that a written proceeding, exhibit or other document that is served by fax machine must be accompanied with a transmission slip setting out:*

*(a) the name, address and telephone number of the sender;*

*(b) the name of the attorney to be served and the fax number of the receiving fax machine;*

*(c) the date and time of transmission;*

*(d) the total number of pages transmitted, including the transmission slip;*

*(e) the fax number of the transmitting fax machine; and*

*(f) the nature of the document.*

 NO**Central Authority of Alberta:** 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**Central Authority of British Columbia:** 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

**Central Authority of Prince Edward Island:**

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**

62) 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?
- 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:

NO

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

NO – why not?

- 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:

**Central Authority of Quebec:**

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

*We have not received any such requests (see answer to question 32(b)(i) but if we were to receive one, the costs would be borne by the requesting State. Moreover, a service request of this kind would have to comply with the rules of the Code of Civil Procedure. Therefore, with the authorization of the judge or the court, service could perhaps be effected through one of these modes. For notification, it would be possible without such authorization.*

- YES

- a. From which State(s) did these requests emanate?
- b. Did the requests for service provide any particular circumstances or explanations as to why the execution of using such technologies was requested?

- YES – From which State(s) did these requests emanate? (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:

- NO

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

- c.  NO – why not?

- 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:

*Not applicable*

**Central Authority of Alberta:**

- 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?
- 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:
- NO
- c. Did your State in fact execute any of these requests for service by using any of these modern technologies?
- NO – why not?
- 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:

**Central Authority of British Columbia:**

- 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?
- 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:
- NO
- c. Did your State in fact execute any of these requests for service by using any of these modern technologies?
- NO – why not?

- 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:

**Central Authority of Manitoba:**

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

*This is not an issue that has required resolution in Manitoba.*

**Central Authority of Prince Edward Island:**

- 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?
- 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:

NO

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

NO – why not?

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:

**Central Authority of Ontario:**

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

*Likely to refuse since not in accordance with our law for most purposes. Would need direction as to method of proof of service. Since Ontario does not restrict foreigners from serving directly, we would expect parties that are allowed by their own court rules to serve electronically to serve in that manner directly from home. There would be no need to use the Ontario Central Authority as an intermediary*

- YES

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

- NO

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

NO – why not?

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:

- 63) 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:

**Central Authority of Alberta:**

- 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:

**Central Authority of British Columbia:**

- 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:

**Central Authority of Prince Edward Island:**

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:

**Central Authority of Ontario:**

*We have no information about requests sent abroad for service.*

- 64) 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:

**Central Authority of Quebec:**

Very Likely

Likely

Very unlikely

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

*According to article 3155(3) of the Civil Code, "A Québec authority recognizes and, where applicable, declares enforceable any decision rendered outside Québec except in the following cases: ... (3) the decision was rendered in contravention of the fundamental principles of procedure; ...."*

*Also of note is article 3156 of the Civil Code, which provides that "A decision rendered by default may not be recognized or declared enforceable unless the plaintiff proves that the act of procedure initiating the proceedings was duly served on the defaulting party in accordance with the law of the place where the decision was rendered.*

*However, the authority may refuse recognition or enforcement if the defaulting party proves that, owing to the circumstances, he was unable to learn of the act of procedure initiating the proceedings or was not given sufficient time to offer his defence."*

*The case law has not yet addressed this specific issue of refusal to enforce a foreign judgment when service is effected by fax, e-mail, SMS, the posting of a message on a website, or by a similar modern technology.*

**Central Authority of Alberta:**

- Very likely
- Likely
- Very unlikely
- It depends on the technology used – please indicate which modern technology method of service your State would accept:

**Central Authority of British Columbia:**

- Very likely
- Likely
- Very unlikely
- It depends on the technology used – please indicate which modern technology method of service your State would accept:

**Central Authority of Manitoba:**

*This is not an issue that has yet required resolution in Manitoba.*

**Central Authority of Prince Edward Island:**

- Very likely
- Likely
- Very unlikely
- It depends on the technology used – please indicate which modern technology method of service your State would accept:

**Central Authority of Ontario:**

- Very likely
- Likely
- Very unlikely
- It depends on the technology used – please indicate which modern technology method of service your State would accept:

*The condition would be acceptable proof of actual service, though that might depend on the court giving the judgment and whether the defendant within Ontario claimed lack of service and of notice of the proceeding.*

- 65) 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:

**Central Authority of Quebec:**

Very likely

Likely

Very unlikely

Please explain / comment:

*Civil procedure is a public-law matter in Quebec, so there would be difficulties if the parties operated outside of the legislation. The service referred to in the question would have to be effected in accordance with the applicable law.*

*However, the likelihood that Quebec would recognize and enforce such an agreement could change if the provisions of Bill 65, entitled An Act to establish a Legal framework for information technology are adopted (see our answers to questions 33 and 67 regarding this subject).*

**Central Authority of Alberta:**

Very likely

Likely

Very unlikely

Please explain / comment:

*Alberta Rules of Court state personal service.*

**Central Authority of British Columbia:**

Very likely

Likely

Very unlikely

Please explain / comment:

**Central Authority of Manitoba:**

*Do not know.*

**Central Authority of Prince Edward Island:**

Very likely

Likely

Very unlikely

Please explain / comment:

*PEI Rules of Civil Procedure state personal service.*

**Central Authority of Ontario:**

Very likely

Likely

Very unlikely

Please explain / comment:

*Parties to a transaction cannot make up their own rules of court. We are talking here about the service of judicial documents, not private documents. To the extent that lawyers can agree to accept email service after the start of a proceeding, that would be enforceable if the agreement were made before the start of litigation (probably).*

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

- 66) 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:

#### **Central Authority of Quebec:**

##### General answer for paragraphs (a) to (d):

*In Quebec, section 2 of An Act to establish a Legal framework for information technology sets out the general principle of the freedom of individuals in regard to the choice of medium used to file documents. This freedom of choice is tempered by the obligation to respect the rules of law. Similarly, the legal value of a document is neither increased nor diminished solely because of the medium chosen. Indeed, this principle is established at section 5 of the AELFIT, which reads as follows:*

*“5. The legal value of a document, particularly its capacity to produce legal effects and its admissibility as evidence, is neither increased nor diminished solely because of the medium or technology chosen.*

*A document whose integrity is ensured has the same legal value whether it is a paper document or a document in any other medium, insofar as, in the case of a technology-based document, it otherwise complies with the legal rules applicable to paper documents.*

*A document in a medium or based on technology that does not allow its integrity to be confirmed or denied may, depending on the circumstances, be admissible as testimonial evidence or real evidence and serve as commencement of proof, as provided for in article 2865 of the Civil Code.*

*Where the law requires the use of a document, the requirement may be met by a technology-based document whose integrity is ensured.”*

*Furthermore, the Civil Code of Québec also states at article 2840 “It is not necessary to prove that the medium of a document or that the processes, systems or technology used to communicate by means of a document ensure its integrity, unless the person contesting the admission of the document establishes, upon a preponderance of evidence, that the integrity of the document has been affected.”*

*Several sections of the AELFIT delimit the scope of the principle. Hence, section 29 states that: “A person may not be required to acquire a specific medium or*

*technology to transmit or receive a document, unless such requirement is expressly provided by law or by an agreement.”*

*Thus, while the expression “postal channel” in paragraph 10(a) of the Convention has not been interpreted in Quebec case law, subsection 28(2) of the AELFIT sets out the principle of the means of transmission of paper documents. Accordingly, any mode of transmission appropriate to the medium of the document may be used.*

*Similarly, section 74 of the AELFIT provides that “74. A reference in the law to the possibility of using one or more specific means of transmission such as sending by mail, by messenger, by cablegram or telegram, by fax, by telematic, computerized or electronic means, by way of telecommunication, teletransmission, fibre optics or any other information technology, does not preclude the use of another means of transmission appropriate to the medium of the document to be sent, provided the legislative provision does not require the exclusive use of a specific means of transmission.” In other words, where a law refers to the possibility of using one mode of transmission, it can be construed to encompass another mode appropriate to the medium of the document. This provision therefore removes any lingering doubt regarding the possibility of using a different mode of transmission appropriate to the medium of the document.*

*However, this freedom conferred by sections 28 and 74 may be limited by statute: when the law requires the exclusive use of a particular means of transmission, the document must necessarily be transmitted by that means. In that regard, exclusive means of transmission are set out in Quebec’s Code of Civil Procedure.*

*Thus, in regard to technological documents, section 28 identifies acceptable equivalents as follows:*

- *where the law requires the use of mail, the requirement may be met by means of the technology appropriate to the medium of the document;*
- *where the law requires the use of certified or registered mail, the requirement may be met, in the case of a technology-based document, by means of an acknowledgement of receipt in the appropriate medium signed by the recipient, or by any other agreed method.*
- *Where the law requires the transmission or reception of a document at a specific address, the address shall comprise, in the case of a technology-based document, an identifier specific to the location where the recipient may receive communication of such document.*

*In view of section 138 CCP, it is conceivable that a judge could authorize the use of a technological means to serve documents abroad. For notification, which is effected by registered or certified mail, there is no problem.*

*Also see our answer to question 67 regarding future developments.*

#### **Central Authority of Alberta:**

- 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:*

**Central Authority of British Columbia:**

- 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:*

**Central Authority of Manitoba:**

- a. Fax  
 YES  
 NO

*Comments:*

*This is not an issue that has yet required resolution in Manitoba.*

- b. E-mail  
 YES  
 NO

*Comments:*

*This is not an issue that has yet required resolution in Manitoba.*

- c. SMS  
 YES  
 NO

*Comments:*

*This is not an issue that has yet required resolution in Manitoba.*

- d. The posting of a message on a website  
 YES  
 NO

*Comments:*

*This is not an issue that has yet required resolution in Manitoba.*

**Central Authority of Prince Edward Island:**

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:*

**Central Authority of Ontario:**

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:*

*However, we might not object to such service if our rules allowed for it anyway. In other words, we do not put much weight on the 'exception' for postal channels under article 10, because we do not restrict what parties can do anyway.*

**E. Miscellaneous**

- 67) 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):

**Central Authority of Quebec:**

*The National Assembly of Québec is currently reviewing Bill 65 entitled An Act respecting the application of the Act to establish a Legal framework for information technology, adopted in principle on June 4, 2008. The purpose of the Bill is to apply to all legislation the principles of neutrality and functional equivalence that are set out in the Act to establish a legal framework for information technology and that make interchangeability and freedom of choice of media and technologies possible. Specifically, section 70.7 proposed by this Bill (section 5 of the Bill) merits special attention: it provides that an obligation to inform a person can be met by delivering a document using a means of communication or an object enabling the recipient to receive the document at a technological address. Document delivery in this manner covers all obligations to inform, i.e., notice, notification or service of a document; however, it is subject to the limitations identified in the provision, namely (1) only if the recipient agrees to receive the document at that address, or (2) if all other means provided by law to contact the recipient have been exhausted.*

*Bill 65 also provides, through section 70.8 (section 5 of the Bill), a functional equivalent for the dissemination of a public notice when it is allowed. Once it comes into force, this section can be used to fulfil the obligation to provide information within a territory using a technology-based document that is accessible or available at a technological address.*

*“70.7. Where a legislative provision provides that the obligation to inform must be met by delivering a document, including notification, to a recipient, the document may be delivered using a means of communication or an object enabling the recipient to receive the document at a technological address. However, the document may be delivered in that manner only if the recipient agrees to receive it at that address or publicly states that documents will be received at a technological address, or if all other means provided by law to contact the recipient have been exhausted.*

*Nevertheless, where a legislative provision provides that a document may be delivered to its recipient at the place where the recipient exercises the functions of office or works, a document may be delivered at the address of that place or at a technological address where the recipient may be contacted. However, the document may be delivered at the technological address only if that address has been designated, by the recipient or a person in a position of authority in relation to the recipient, as the place where the recipient may receive technology-based documents, directly or through another person.”*

*“70.8. No legislative provision that creates an obligation to inform by requiring that information be disseminated, distributed, released, transmitted, published or made known or public in any other way in a territory, including that of Québec, a metropolitan community, an urban agglomeration, a municipality, a locality or a borough, shall be construed as implying an obligation to use a paper document.*

*However, to fulfil the obligation to provide information in a territory using a technology-based document that is accessible or available at a technological address, the following conditions must be met:*



*(1) for information intended for a community as a whole, the appropriate means for accessing the document and examining it at a technological address must be available in the community and their existence made known;*

*(2) for information intended for a category of persons, the appropriate means must be available as provided in subparagraph 1, or those persons must be required by law or under an agreement to acquire the appropriate means for receiving or accessing a technology-based document; and*

*(3) for information intended for a person identified by the person's relationship to a territory or by the fact that the person may be in that territory or may be contacted there, the person must be able to access and examine the document at a technological address from a place situated in that territory, or the person must have publicly stated that the document will be received or examined at a technological address."*

**Central Authority of Ontario:**

*No changes since 2003.*

- 68) 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.