

No. 06-449/CONS

The Embassy of the United States of American presents its compliments to the Ministry of External Affairs and wishes to provide information regarding fees payable for service of process to a person in the United States who is a party to an Indian judicial proceeding. In accordance with the Department of State's Circular Diplomatic Note of June 4, 2003 (of which a copy is included herein), the United States announced to all foreign missions in Washington that effective June, 2003, it began using the services of a private firm, Process Forwarding International (PFI) to act on behalf of the United States to receive requests for service, proceed to serve the documents, and complete the certificate of service. It also announced that there would be a fee to cover the costs occasioned by the use of this private firm. This change applied to countries party to the Hague Convention on the Service of Judicial and Extrajudicial Documents in Civil and Commercial Matters and the Inter-American Convention on Letters Rogatory and Additional Proctocol, as well as countries not party to either multilateral treaty on service of process. Requests for service of process must be sent directly to PFI..

Under the current contract, PFI charges a flat rate of US \$ 93 for process of service throughout the United States and its territories. Beginning on June 1, 2006, that fee will increase to US \$ 95. Payment of the requisite fee must be made at the time of the request for service of process or the request will be rejected for non-compliance with this fee requirement.

Further information on this policy and the use by the United States of a private contractor to effect international requests for service of process may be found in the documents presented by the United States at The Hague and may be found at <http://hcch.e-vision.nl>. The propriety of the assessment of such fees to cover the costs occasioned by the employment of third parties is fully discussed in

the Conclusions and Recommendations of the Special Commission of October-November 2003 which were presented at the Hague and may be found at the same website.

The information provided herein relates to judicial matters involving private parties. With respect to judicial matters in which one of the parties is the Government of India, no service of process fee is applicable.

The Embassy also wishes to remind the Ministry that the U.S. Government continues to make every attempt to ensure reciprocity with respect to any request for judicial assistance in civil matters made by the Government of India.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of External Affairs the assurances of its highest consideration.

Embassy of the United States of America

New Delhi, May 25, 2006

The Secretary of State presents his compliments to Their Excellencies, Messieurs and Mesdames the Chiefs of Mission, and has the honor to inform them of certain changes to the way judicial assistance is afforded to foreign tribunals and to litigants before such tribunals by the Government of the United States.

The Secretary of State's circular diplomatic note of February 3, 1975 described how requests from foreign tribunals for service of process and compulsion of evidence should be prepared for execution in the United States. The purpose of this circular diplomatic note is to announce a change in how request from foreign tribunals for service of process in civil and commercial matters will be handled in the United States. This change will affect countries party to the Hague Convention on the Service of Judicial and Extrajudicial Documents in Civil and Commercial Matters and the Inter-American Convention on Letters Rogatory and Additional Protocol, as well as countries not party to either multilateral treaty on service of process.

The Department of Justice of the United States of America has informed the Department of State that it is delegating the service of process function to a private contractor, Process Forwarding International of Seattle in the State of Washington. This procedural change does imply the formal designation of a new Central Authority for either the Hague Service Convention or the Inter-America Convention on Letters Rogatory, but simply reflects the outsourcing of certain activities conducted by the Central Authority, which formally remains the U.S. Department of Justice.

Process Forwarding International will be the only private process server company authorized to act on behalf of the United States to receive requests for service, proceed to serve the documents, and complete the certificate of service. Process Forwarding International will be responsible for executing requests for service of process in the following areas: the United States (the fifty states and the District of Columbia), Guam, American Samoa, Puerto Rico, the U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands.

Personal service will be the preferred method used on all requests. In the event personal service is impossible to effect, Process Forwarding International will serve process by such other method or methods as may be permitted under the law of the jurisdiction. In addition, Process Forwarding International is

required to complete service of documents for return to the foreign requesting authority within six weeks of receipt.

Beginning June 1, 2003, requests for service of process should be transmitted to Process Forwarding International, 910 5<sup>th</sup> Avenue, Seattle, Washington, 98104 USA, telephone: (206) 521-2979; Fax: 206-224-3419; Email: [info@hagueservice.net](mailto:info@hagueservice.net); Website: <http://www.hagueservice.net>. Requests for service must be transmitted in duplicate with an appropriate translation (one set will be served and the other will be returned by Process Forwarding International with a certificate of service). The full name and the street address for the person or entity to be served must be included.

There will be a fee for service of process requests from any foreign entity, including countries party to the Hague and countries not party to any multilateral treaty on service of process. No fee will be charged for requests under the Inter-American Convention on Letters Rogatory and Additional Protocol as the United States agreed to no-fee services on accession to the Convention. The service fees for requests under the Hague

Service Convention and requests from countries not party to any treaty on service of process are:

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| 2003 – Personal service or service by mail      | \$ 89.00 |
| 2004 - Personal service or service by mail      | \$ 91.00 |
| 2005 - Personal service or service by mail      | \$ 93.00 |
| 2006-2007 - Personal service or service by mail | \$95.00  |

Payment of fees may be made by Visa, Mastercard, most international credit cards, bank transfers, international money orders and government-issued checks

payable to Process Forwarding International. Personal checks are not accepted. All service requests must comply with the payment schedule and method of payment described. All service requests unaccompanied by proper payment in the matter indicated will be returned without processing. The website for Process Forwarding International provides specific guidance on methods of payment. It will also be possible to check on the status of a service request on the website.

Requests received by the United States during the thirty days prior to the effective date of the new arrangement will be forwarded to Process Forwarding International for service free of charge. All pending requests for service received prior to the effective date will continue to be processed by the U.S. Department of Justice. Requests received on or after June 1, 2003, will be sent to Process Forwarding International, where they may be rejected for non-compliance with the new fee requirement.

Countries not party to the Hague or Inter-American Conventions on service of documents may continue to send requests for service through the diplomatic channel, but they must be accompanied by the fee noted above. These requests will be sent to Process Forwarding International for further handling. It should be noted, however, that use of the diplomatic channel is not obligatory, and countries not party to these service Conventions may prefer to send their requests and receive their certificate of service directly from Process Forwarding International. The outsourcing of these activities formerly provided by the U.S. Department of Justice will increase efficiency. The Department of State therefore encourages all countries to avoid the use of the diplomatic channel for routine matters and take advantage directly of the new procedures.

The Secretary of State notes that there is no requirement under U.S. federal law that requests for judicial assistance be referred to the Department of State or the Department of Justice's contractor for execution. The United

States has no objection to the informal delivery of such documents by members of diplomatic or consular missions in the United States, through the mails or by private persons if that would be effective under applicable law, provided no compulsion is used.

Department of State,

Washington,

June 4, 2003