

Government of India  
Ministry of Law & Justice  
Department of Legal Affairs  
(Judicial Section)

\*\*\*\*\*

Room No. 439- A  
4<sup>th</sup> Floor, A- Wing, Shastri Bhawan,  
New Delhi, the 10 September, 2018

OFFICE MEMORANDUM

**Sub.: Request for advice on the matter regarding procedure for service of legal notice/summons etc. in China**

The undersigned is directed to refer U.O. No. E-551/1/2018-CH dated 17<sup>th</sup> May, 2018 on the subject mentioned above and to say that the procedure for service of summons/notices in Civil or Commercial matters in China is as given below:

- a) Summons/Notices in Civil or Commercial matters for service upon respondents/parties in China are to be forwarded by the respective Indian Court to the Judicial Section, Department of Legal Affairs, Ministry of Law & Justice, Room No. 439-'A', 4th Floor, 'A'-Wing, Shastri Bhawan, New Delhi- 110001.
- b) As per Article 3 of the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, two sets of summons/notice in original should be provided to this Department.
- c) As per the Practical Information provided by the Chinese Authorities, time for execution of requests for service is 3 to 5 months. Hence, in case date of appearance is fixed, the summons must be sent to this Department well in advance so as to ensure sufficient time for service.
- d) No fee is charged for execution of requests.
- e) Article 5(1) of the Convention requires that all documents and evidence to be served must be written in Chinese or that a translation in Chinese be attached thereto. As such, the Courts are required to provide Chinese translation of the documents.
- f) Providing legal Assistance in Criminal Matters is the concern of the Ministry of Home Affairs and thus guidance in this regard may be sought from MHA.
- g) In case any of the aforementioned procedural requirements are not fulfilled, the request for service of summons/notice will not be executed and the documents will be returned to the Court concerned. The Court is requested to fulfill all the shortages and revert back to this Department with a fresh request.
- h) In case all the aforementioned procedural requirements are fulfilled, the summons/notice will be forwarded by this Department to the Chinese Central Authority i.e. International Legal Cooperation Center (ILCC), Ministry of Justice of China 33, Pinganli Xidajie, Xicheng District, BEIJING 100035, People's Republic of China with the request to serve the summon/notice on the respondent and to forward the report to this Department. Once the report is received in this Department, the same will be forwarded to the Court concerned.

:: Pg. 1/2 ::

*OC*  
*10/9/18*

2. It is also brought to notice that since China is a party to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, the summons/notice for service in China are mandatorily to be routed through this Department. It appears that the Embassy has been receiving documents directly from the Courts in India and therefore such requests are being summarily rejected by the Chinese Authorities. In case any such summons/notices are received directly from the Courts rather than from this Department, the Embassy is requested to return the same to the Courts concerned with the request to forward the same to this Department.

3. Further, as stated in Para 1.f above information with regard to assistance in criminal matters may be sought from the Ministry of Home Affairs at the address: Legal Cell, Internal Security-II Dvsn., MHA, Hall-B, 1<sup>st</sup> Floor, NDCC-II Building, Jai Singh Road, New Delhi-110001.



**(L.C. Dabaria)**  
**Asst. Legal Adviser**  
**Tel. No.: 011-23384831**

**Shri Prasanna Shrivastava**  
**Deputy Secretary (China)**  
**East Asia Division, Ministry of External Affairs**  
**South Block, New Delhi 110011**