HCCH Evidence Convention

HCCH Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters
62 Contracting Parties

NB: Boundaries on this map are based upon those used by the UN Cartographic Section. The number of States reflects the Parties as recorded by the Depositary (NL MFA). Neither should be taken to imply official endorsement or acceptance.
Evidence abroad with the Convention

Chapter I
Letters of Request

Chapter II
Diplomatic officers | Consular agents | Commissioners

Derogatory channels
Other Channels | Less restrictive conditions | Bilateral/multilateral agreements
Evidence abroad without a Treaty

**STATE OF ORIGIN**

- Letter of Request
  - Judicial authority/judicial officer in State of origin

**STATE OF DESTINATION**

- Authority competent to take the evidence
  - Ministry of Justice

- Diplomat of State of origin accredited within State of destination
  - Ministry of Foreign Affairs
  - Diplomatic bag
  - Ministry of Justice

- Taking of Evidence
Chapter I – Indirect Taking of Evidence

By Letter of Request

REQUESTING STATE

Letter of Request

Judicial Authority “Requesting State”

REQUESTED STATE

Central Authority of the “Requested State”

Competent Authority of the “Requested State”

Taking of Evidence
civil or commercial matters (Art 1(1))
evidence or « other judicial act » (Art. 1(1))
judicial proceedings, commenced or contemplated (Art 1(2))
compulsion (Art. 10)
pre-trial discovery of documents (Art. 23)
Chapter II – Direct Taking of Evidence
By a Consul / Commissioner

Request to take evidence abroad

Court in State of Origin

Consul / Commissioner takes evidence in State of Execution

Consul accredited to State of Execution

Commissioner appointed in State of Origin

STATE OF ORIGIN

STATE OF EXECUTION
civil or commercial matters (Arts 15, 17)

proceedings commenced in a court (Arts 15, 16, 17)

« take all kinds of evidence » (Art. 21(a))

apply for assistance to obtain by compulsion (Art. 18)
Transmitting a document by electronic means
(as provided for by the Convention)

Executing the request by electronic means
(as provided for by domestic law)

Ongoing Work:

Questionnaires on Use of IT under the Service and Evidence Conventions

Guide to Good Practice on the Use of Video-Link (forthcoming 2020)

HCCH a|Bridged: Edition 2020
2 Other HCCH Instruments
Art. 2(2) Exclusions from scope (inter alia):

- family law matters
- insolvency, composition and analogous matters
- anti-trust (competition) matters

Art. 7 Does not govern interim measures of protection
Art. 2(1) Exclusions from scope (inter alia):

- family law matters
- insolvency, composition, resolution of financial institutions and analogous matters
- anti-trust (competition) matters,

except where the judgment is based on conduct that constitutes an anti-competitive agreement or concerted practice among actual or potential competitors to fix prices, make rigged bids, establish output restrictions or quotas, or divide markets by allocating customers, suppliers, territories or lines of commerce,

and where such conduct and its effect both occurred in the State of origin;

Art. 3(1)(b) Interim measure of protection is not a judgment
Art. 6

Central Authorities shall take all appropriate measures:

…

c) to help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets;

…

g) to facilitate the obtaining of documentary or other evidence;