



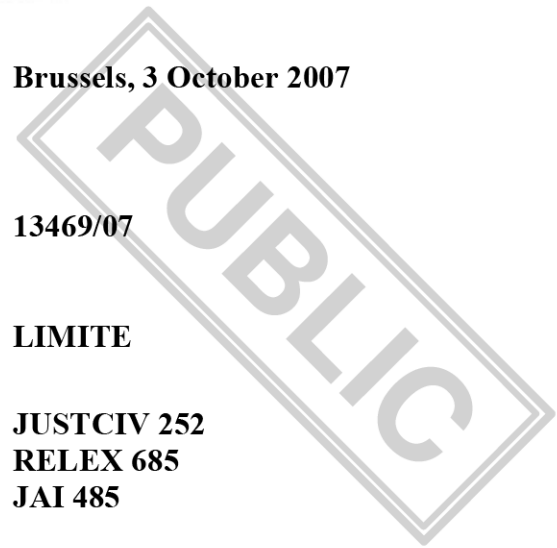
**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : General Secretariat of the Council
to : Committee on Civil Law Matters (General Questions)

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Subject : Aspects of judicial cooperation in civil matters in the framework of the Strategy for the External Dimension of JHA: Global Freedom, Security and Justice
- Relations with certain countries: China, India, Japan, Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) and Mexico

1. At its meeting on 28 April 2006, the JHA Council adopted a general framework for the future strategy of the external dimension in the field of judicial cooperation in civil matters (see 8140/06 JUSTCIV 93 RELEX 228 JAI 177).

2. Taking into account the guidelines defined in that strategy paper, the General Secretariat of the Council prepared a working document specifying the state of cooperation as regards judicial cooperation in civil matters with certain countries referred to in the strategy (see doc. 6118/07 JUSTCIV 22 RELEX 84 JAI 62).¹

¹ This document will updated and consolidated in the nearest future.

3. At the meeting of the Committee on Civil Law Matters (General Questions) on 11 September 2007¹ some delegations proposed adding other countries to the list. It was agreed to supplement the list with China, India, Japan, Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) and Mexico.

4. The current note gives an overview of the legal framework of the relations with these countries in particular as regards judicial cooperation in civil matters and lists the Hague Conventions to which the States concerned are Parties.

¹ 13472/07 JAI 486 JUSTCIV 253.

1. CHINA

1.1. General context

The relations between the EU and China have developed from a relationship based mainly on trade issues to a partnership based on political dialogue and economic, trade and sectoral relations. The EU has an important economic and political interest in supporting China's successful transition to a stable, prosperous and open country. At the EU-China summit in Helsinki on 9 September 2006 it was agreed to launch negotiations on a comprehensive new Partnership and Co-operation Agreement (PCA). These negotiations were formally launched in January 2007 and the first round of talks at the level of high-ranking officials took place in May this year.

The Commission set out its ideas on the relationship between EU and China in a communication called "EU – China: Closer partners, growing responsibilities" (COM(2006) 631 final) which was issued in October 2006. The same month the Commission issued a communication called "The European Union, Hong Kong and Macao: possibilities for cooperation 2007-2013" (COM(2006) 648 final). The Council (General Affairs and External Relations) examined these communications at its 2771st meeting on 11-12 December 2006 and adopted a set of conclusions on an EU-China Strategic Partnership (16291/06).

The Commission very recently published a Country Strategy Paper for China (2007-2013) and a Multiannual Indicative Programme (2007-2010).

1.2. Relevant provisions

The abovementioned documents are all silent on aspects relating to judicial cooperation in civil matters. Against the backdrop of the increasing contacts between the EU and China with the high number of Chinese visiting the Member States as tourists or studying and working in the EU and the equally high number of Europeans living and working in China, not least in Hong Kong, and of the still closer commercial ties between the EU and China it would be highly relevant also to deal with civil judicial cooperation in the dialogue between the EU and China.

1.3. Conventions to which China is a party

China has been a member of the Hague Conference on Private International Law since 1987.

It has acceded to/ratified the following conventions which are in force for mainland China plus Macao and Hong Kong:

- Statute of the Hague Conference on Private International Law
- Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
- Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters
- Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition
- Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption

The following Conventions are in force for either only Macao (M) or only Hong Kong (HK) or for both:

- Convention of 1 March 1954 on civil procedure (M)
- Convention of 24 October 1956 on the law applicable to maintenance obligations towards children (M)
- Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children (M)
- Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors (M)
- Convention of 5 October 1961 on the Conflicts of Laws relating to the Form of Testamentary Dispositions (HK)

- Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (M + HK)
- Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations (HK)
- Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (M + HK)

2. INDIA

2.1. General context

The relations between India and the EC are currently regulated by the 1994 Cooperation Agreement on partnership and development.

The institutional basis for EU-India political dialogue is a Joint Political Statement signed simultaneously with the Co-operation Agreement, foreseeing annual ministerial meetings, and opening the door to a broad political dialogue.

In 2004 the Strategic Partnership was launched and in 2005 an action plan was agreed to implement the Partnership.

On 31 May 2007, an EU Troika-India Meeting of Foreign Ministers took place in Berlin, during which the EU and India reaffirmed their joint commitment to take forward the negotiation of an EU-India Free Trade Agreement; agreed to engage in exploratory talks on a possible new EU-India Partnership and Cooperation Agreement (PCA) and identified potential deliverables for the next EU-India Summit. These should include a formal launch of PCA talks, reinforcing cooperation in energy and climate change; the renewal of the EU-India Science and Technology Cooperation Agreement and the signing of agreements on civil aviation and maritime transport.

2.2. Relevant provisions

There is no specific provision on judicial cooperation in civil matters.

2.3. Conventions to which India is a party

India has applied for membership of the Hague Conference on Private International Law.

India is a party to the following Hague Conventions:

- Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
- Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
- Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (not yet in force)
- Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption

3. JAPAN

3.1. General context

The relationship with Japan is anchored in two key documents: the Joint Declaration of 1991 and the Action Plan for EU-Japan Cooperation of 2001.

The Joint Declaration on relations between the European Community and its Member States and Japan established common principles and shared objectives in the political, economic, cooperation and cultural areas and established a consultation framework for annual meetings between Japan and the EU.

The Action Plan of 2001 (“Shaping our Common Future”) is the key instrument establishing a strong and results-oriented partnership over a ten-year period (until 2011). It has four basic objectives: promoting peace and security; strengthening the economic and trade partnership; coping with global and societal challenges; and bringing people and cultures together.

In addition, the EU has concluded a number of agreements with Japan in specific fields.

The EU and Japan also cooperate in international organisations (UN, WTO, OECD, international financial institutions, etc) and in the G8.

The 16th EU-Japan Summit was held on 5 June 2007 in Berlin.

3.2. Relevant provisions

The Action Plan contains a section on Terrorism, Transnational Crime, Drug Trafficking and Judicial Cooperation but no specific provisions on judicial cooperation in civil matters.

3.3. Conventions to which Japan is a party

Japan is a party to the following Hague Conventions:

- Statute of the Hague Conference on Private International Law
- Convention of 1 March 1954 on civil procedure
- Convention of 24 October 1956 on the law applicable to maintenance obligations towards children
- Convention of 5 October 1961 on the Conflicts of Laws relating to the Form of Testamentary Dispositions
- Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
- Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
- Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations

4. MERCOSUR COUNTRIES

4.1. ARGENTINA

4.1.1. *General context*

The EU-Mercosur relationship is based on the EU-Mercosur Interregional Framework Co-operation Agreement signed on 15 December 1995 in Madrid between the EC and its Member States and the Mercosur and its Party States. The framework agreement entered into force on 1 July 1999.

However, the provisional application already took place from 1996 onwards. The Agreement consists of three main elements: political dialogue, co-operation and trade issues.

Regional Strategy Paper provides a strategic framework for EC cooperation with Mercosur for the period 2007-2013.

4.1.2. *Relevant provisions*

There are no specific provisions on judicial cooperation in civil matters.

4.1.3. *Conventions to which Argentina is a party*

Argentina is a party to the following Hague Conventions:

- Statute of the Hague Conference on Private International Law
- Convention of 1 March 1954 on Civil Procedure
- Convention of 5 October 1961 on Abolishing the Requirement of Legalisation for Foreign Public Documents
- Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters
- Convention of 13 March 1970 on Taking of Evidence Abroad in Civil or Commercial Matters
- Convention of 25 October 1980 on the Civil Aspects on International Child Abduction
- Convention of 1 August 1989 on the Law Applicable to Succession to the Estates of Deceased Persons

4.2. BRAZIL

4.2.1. General context

The EU-Mercosur relationship is based on the EU-Mercosur Interregional Framework Co-operation Agreement signed on 15 December 1995 in Madrid between the EC and its Member States and the Mercosur and its Party States. The framework agreement entered into force on 1 July 1999. However the provisional application already took place from 1996 onwards. The Agreement consists of three main elements: political dialogue, co-operation and trade issues.

Regional Strategy Paper provides a strategic framework for EC cooperation with Mercosur for the period 2007-2013.

On 4 July 2007 the first EU-Brazil Business Summit took place. Questions of judicial cooperation in civil matters were not examined.

4.2.2. Relevant provisions

There are no specific provisions on judicial cooperation in civil matters.

4.2.3. Conventions to which Brazil is a party

Brazil is a party to the following Hague Conventions:

- Statute of the Hague Conference on Private International Law
- Convention of 25 October 1980 on the Civil Aspects on International Child Abduction
- Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption

4.3. Paraguay

4.3.1. General Context

The EU-Mercosur relationship is based on the EU-Mercosur Interregional Framework Co-operation Agreement signed on 15 December 1995 in Madrid between the EC and its Member States and the Mercosur and its Party States. The framework agreement entered into force on 1 July 1999. However the provisional application already took place from 1996 onwards. The Agreement consists of three main elements: political dialogue, co-operation and trade issues.

Regional Strategy Paper provides a strategic framework for EC cooperation with Mercosur for the period 2007-2013.

4.3.2. Relevant provisions of the Agreement

There are no specific provisions on judicial cooperation in civil matters.

4.3.3. Conventions to which Paraguay is a party

Paraguay is a party to the following Hague Conventions:

- Statute of the Hague Conference on Private International Law
- Convention of 25 October 1980 on the Civil Aspects on International Child Abduction
- Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption

4.4. Uruguay

4.4.1. General Context

The EU-Mercosur relationship is based on the EU-Mercosur Interregional Framework Co-operation Agreement signed on 15 December 1995 in Madrid between the EC and its Member States and the Mercosur and its Party States. The framework agreement entered into force on 1 July 1999. However the provisional application already took place from 1996 onwards. The Agreement consists of three main elements: political dialogue, co-operation and trade issues.

Regional Strategy Paper provides a strategic framework for EC cooperation with Mercosur for the period 2007-2013.

4.4.2. Relevant provisions of the Agreement

There are no specific provisions on judicial cooperation in civil matters.

4.4.3. Conventions to which Uruguay is a party

Uruguay is a party to the following Hague Conventions:

- Statute of the Hague Conference on Private International Law
- Convention of 25 October 1980 on the Civil Aspects on International Child Abduction
- Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption

5. Mexico

5.1. General context

Bilateral relations between the EU and Mexico are governed by the Economic Partnership, Political Co-operation and Co-operation Agreement (Global Agreement) signed in Brussels on 8 December 1997. This Agreement entered into force on 1 October 2000.

Bilateral co-operation activities for the period 2002-2006 focus on the priorities identified in the Country Strategy Paper (CSP). The priority action sectors - among others - are the following:
"Consolidation of the rule of law and institutional support. The two areas of intervention are: reform of the judicial system and actions in the Human Rights domain."

5.2. Relevant provisions

There are no specific provisions on judicial cooperation in civil matters.

5.3. Conventions to which Mexico is a party

Mexico is a party to the following Hague Conventions:

- Statute of the Hague Conference on Private International Law
- Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents
- Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
- Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters
- Convention of 25 October 1980 on the Civil Aspects of International Child Abduction
- Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption