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Service of Process in China: Tips, Tricks, and Traps

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Serving defendants in China can be an intimidating process, and it has become even more so given the increasingly strained relationship between the United States and China. Even if a defendant can be located (often a difficult process by itself), properly serving that defendant in China can take up to six months. Given such lengthy delays, many companies try to serve process in other ways, which can be risky. For example, improper service can risk case dismissals and/or outright refusal to enforce a judgment.

In this article, we provide a high-level summary of the rules governing service of U.S. litigation documents to Chinese companies in China, explain common pitfalls that many litigants fall into, and provide some additional strategies that might help avoid the delay and pitfalls of conventional service of process. In a nutshell, there are various service methods possible; however, the availability and reliability of those methods depend greatly on the individual circumstances of each case. The formal (and, unfortunately, slowest and most procedurally involved) way of serving process through the Chinese Central Authority remains the most reliable. This formal approach also ensures the enforceability of a judgment in China.

That said, there are ways to leverage the presence of a U.S.-based affiliate (or even U.S.-based legal counsel) to effectuate service. This approach is generally limited to certain types of defendants and certain federal venues but can be a useful way to avoid the onerous time delay of conventional service of process via the Chinese Central Authority. Such alternative service approaches, while often valid in the U.S., do run the risk of making judgments unenforceable in China, so their use must be limited to circumstances where judgment enforcement is possible within the United States and where enforcement in China is not necessary.

The Hague Convention Applies in China, With Limitations on Methods of Service

Plaintiffs that want to serve process against foreign defendants with known addresses must do so in accordance with the Hague Convention. Both China and the U.S. are signatories of the Hague Convention (formally, the "Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters"). The Hague Convention applies "in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad." Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Art. 1. That said, the Hague Convention does not apply if the "address of the person to be served with the document is not known." *Id*. Courts have interpreted this as an essential requirement: If the transmitting of documents for service falls within the scope of Article 1 (that is, for instance, if the defendant is outside of the United States and their address is known), compliance with the Hague Convention is required for service to be valid. *Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 699 (1988).

The Federal Rules of Civil Procedure (FRCP) reflect this approach: Rule 4(h)(2) provides that service may be conducted on a foreign corporation at a place not within any judicial district in the United States in a manner proscribed in Rule 4(f), and Rule 4(f)(1) more particularly provides that service may be conducted in a foreign country "by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents."

The Hague Convention provides for both direct service (via a "central authority") as well as a variety of optional and alternative forms of service. Specifically, Article 5 of the Hague Convention requires that each country to the convention establish a central authority to serve the documents in their country. Information on China's Central Authority can be found here. Article 10 provides a variety of optional alternative methods of service, including via mail or personal service (e.g., via a process server or judicial officers). However, China, along with many other states, has objected to these alternative methods of service, suggesting that they are unavailable in China altogether.

Service of process must be proper for a judgment to be enforceable in China. China and the United States do not have a mutual agreement for enforcing each other's judicial

judgments. Instead, China is willing to enforce judgments only insofar as there is "reciprocity" in enforcement of judgments between the two countries. Civil Procedural Law of the People's Republic of China, Art. 298. In recent years, this standard has relaxed, and often only requires that a U.S. court would theoretically recognize and enforce a Chinese judgment. That said, Chinese courts will not enforce a judgment premised on an improper subpoena. *Id.,* Art. 300(2). Thus, a proper record of service, including compliance with China's position on the Hague Convention when applicable, is almost certainly necessary for enforcing the judgment in China.

Hague Convention Does Not Apply if the Defendant's Address Is Unknown

An important carveout of the Hague Convention is that it does not apply anywhere—including China—"where the address of the person to be served with the document is not known." Hague Convention, Art.1. To prove that the address is not known, plaintiffs must prove that they made reasonable efforts to identify the physical location of the defendant. *See Prep Sols. Ltd. v. Techono Ltd.*, No. 2:23-CV-00211-JRG, 2023 WL 8101859, at *3 (E.D. Tex. Nov. 21, 2023) (sufficient proof where Google searches and research of registries revealed no physical address, Hague Convention therefore did not apply); *Whirlpool Corp. v. Shenzhen Lujian Tech. Co.*, No. 2:21-CV-00397-JRG, 2022 WL 329880, at *2 (E.D. Tex. Feb. 2, 2022) (defendant "purposefully obfuscated their physical location and identities," could not be located by private investigator, Hague Convention therefore did not apply). Often, the result of a defendant's physical location being unknown is that it allows plaintiffs to move for alternative service under Federal Rule of Civil Procedure 4(f)(3) (such as via email, discussed below). Note, however, that this does not necessarily mean that any judgments would be enforceable in China, as discussed in more detail below.

Direct Service in China via the Chinese Central Authority: Reliable, Particular, Slow

Service of process in China in accordance with Article 5 of the Hague Convention is a multi-step process:

- First, the plaintiff must send a package of documents and payment to the Chinese Central Authority (specifically, the International Legal Cooperation Center (ILCC) in Beijing). The

request can alternatively be submitted through the ILCC's online portal [login required]. That package must include:
    - a special Hague Convention form (a "Request for Service Abroad of Judicial or Extrajudicial Documents"—the form must be filled out in a very particular manner, and a guide to that form is available here);
    - the address of the company or individual to be served;
    - relevant documents to be served, including Chinese-language translations (though there is no requirement that they be formal or notarized); and
    - service fees (about $95 for requests from the U.S.).
- The Chinese Central Authority, upon ensuring that the form, documents, and fees are in order, will then serve process on the Chinese defendant. This process can take multiple months, as often the documents are sent to very busy local courts.
- Once process is served, the Chinese Central Authority will return to the plaintiff a certificate confirming that service is compliant.

There is little to no margin for error in the preparation of these documents. Even small errors (such as striking through options rather than circling others) can delay processing of service.

One benefit of this process is that it can help preserve the enforceability of a U.S. judgment in China. That is not the case for alternative methods of service, discussed below. In turn, for defendants who do not have any significant assets outside of China, the direct method of service under the Hague Convention may remain the smartest approach, even if it is undesirably slow.

Alternative Methods of Service: Generally Unavailable in China, Email Process Possible in Some U.S. Courts (but Risky)

As already mentioned above, China has objected to the alternative methods of service detailed in the Hague Convention, such as service via the mail ("postal channels"), direct service to a defendant or an officer of the defendant by a private process server, and service to a defendant or an officer of the defendant via a "judicial officer" (other than the Chinese Central Authority). In turn, it can be fairly assumed that these processes are generally unavailable in China.

U.S. courts are split on the issue of whether email service to Chinese companies is valid. The Federal Rules of Civil Procedure permit service on a foreign corporation "*by other means not prohibited by international agreement*, as the court orders." Fed. R. Civ. P. 4(f)(3) (emphasis added). This could permit plaintiffs to request via motion that the court allow service of process via certain alternative methods of process not specifically detailed in the Hague Convention, such as email. That said, the question of whether such alternative methods include email hinges on how you define "postal channels."

Some courts reason that China's objection to Article 10 service via "postal channels" extends to emails and thereby renders email service of process "prohibited by international agreements" under Federal Rule of Civil Procedure 4(f)(3). *See, e.g*., *Pinkfong Co., Inc. v. Avensy Store*, No. 1:23-CV-09238 (JLR), 2023 WL 8531602, at *3 (S.D.N.Y. Nov. 30, 2023). Other courts have reasoned that China's lack of express objection to service via email means that emails are not prohibited. *See, e.g.*, *Prem Sales, LLC v. Guangdong Chigo Heating & Ventilation Equip. Co.*, 494 F. Supp. 3d 404, 414 (N.D. Tex. 2020). Fifth Circuit courts, like the Eastern District of Texas, fall into this latter camp.

The Fifth Circuit has ruled that the Hague Convention (more specifically China's objection to email service) does not supersede available methods of service under U.S. federal law, including via email under FRCP 4(f)(3). *Viahart, L.L.C. v. He GangPeng*, No. 21-40166, 2022 WL 445161, at *3 (5th Cir. Feb. 14, 2022); *see also Vega v. Arendal S. De R.L. De C.V.*, No. 1:21-CV-69, 2024 WL 150222, at *5–*6 (E.D. Tex. Jan. 12, 2024) (allowing service of Mexican defendant via email, despite Mexico's Article 10 objections). In turn, at least the Eastern District of Texas (among other courts) would permit Chinese companies to be served via email. Again, however, while valid for service in the United States, enforcement of the judgment in China after performing service by email is a separate issue, discussed further below.

Critically, courts that do sometimes permit service of process via email or similar non-Hague Convention methods do not automatically permit such service in all circumstances. Factors that those courts consider include whether there is substantial cost and delay, whether the alternative method of service is reasonably calculated to give notice, and whether there have been previous attempts to effectuate service. *See, e.g., Orange Elec. Co. v. Autel Intelligent Tech. Corp.,* No. 2:21-CV-00240-JRG, 2022 WL 4125075, at *3 (E.D. Tex. Sept. 9, 2022); *Stingray IP Sols., LLC v. TP-Link Techs. Co.*, No. 2:21-CV-00045-JRG, 2021 WL 6773096, at *3-*4 (E.D. Tex. Nov. 19, 2021).

While not required, it can often help for a plaintiff to try direct service via the Hague Convention, even if it fails, as that attempt can support a motion for court-authorized service via email. The Federal Circuit has held that attempted service under the Hague Convention is not a prerequisite for plaintiffs to file a motion for alternative service (e.g., via email). *In re OnePlus Tech. (Shenzhen) Co., Ltd*., No. 2021-165, 2021 WL 4130643, at *3 (Fed. Cir. Sept. 10, 2021). Along those lines, some courts have found that the lengthy (six months or more) time it could take to achieve service under the Hague Convention in China is a basis to permit email service. *See Sino Star Glob. Ltd. v. Shenzhen Haoqing Tech. Co.*, No. 4:22-CV-00980, 2023 WL 2759765, at *2 (E.D. Tex. Apr. 3, 2023). That said, pragmatically speaking, it can be helpful to try direct service via the Hague Convention, as delays in that process can provide an even stronger justification for a court to permit email service. *See Viavi Sols. Inc. v. Zhejiang Crystal-Optech Co.*, No. 2:21-CV-00378-JRG, 2022 WL 1271706, at *3 (E.D. Tex. Apr. 28, 2022) (previous attempt at service under the Hague Convention in China pending after six months as a factor supporting a grant of a motion for email service).

There is a critical caveat to email service against Chinese companies: Even if a Chinese company can be served via email, this does not mean that judgments premised on such service would be enforceable in China. Chinese courts can recognize and enforce judgments from foreign courts based on treaties or the principle of reciprocity. Civil Procedure Law of the People's Republic of China (2024), Art. 298. That said, recognition will not happen if the Chinese courts determine that the defendants were not properly served. *Id.* Art. 300. In March of 2025, the Chinese Central Authority asserted that email service was service via "postal channels," and thus objected to service of Chinese companies via email. In the same release, the China Central Authority stated explicitly that foreign judgments premised on service conducted via mail or email shall not be recognized nor enforced. In turn, it may be all but impossible to enforce a U.S. judgment in China if it was based on service of process via email (or regular mail), even if service is otherwise considered valid in the United States. Instead, such judgments would likely only be enforceable in the United States.

Serving Domestic Affiliates: Much Easier, Venue- and State-Specific

Assuming that a Chinese company has a U.S. affiliate (such as a U.S. subsidiary), serving the U.S. affiliate may be an effective way to circumvent the Hague Convention. Because Article 1 of the Hague Convention applies "where there is occasion to transmit a judicial or extrajudicial document *for service abroad*," [emphasis added] it simply does not apply to

domestic service. *See Schlunk*, 486 U.S. at 707 ("[w]here service on a domestic agent is valid and complete under both state law and the Due Process Clause, our inquiry ends, and the Convention has no further implications.").

When serving U.S. affiliates of Chinese companies, it may be possible to serve process based on the state law where the venue is located *or* the state law where the U.S. affiliate is located. For example, in two different cases in the Eastern District of Texas involving California-based U.S. affiliates of Chinese companies, the courts indicated that service of process would be proper if it complied with *either* Texas or California law (and, of course, if it complied with due-process requirements more generally). *LONGi Green Energy Tech. Co. v. Jinko Solar Co.*, No. 2:25-CV-00048-JRG-RSP, 2025 WL 1762962, at *1–*2 (E.D. Tex. Apr. 27, 2025); *Arigna Tech. Ltd. v. Bayerische Motoren Werke AG*, 697 F. Supp. 3d 635, 644–45 (E.D. Tex. 2023).

The ability to serve process based on the state law of the venue or the state law of the state where a Chinese company's U.S. affiliate is located presents a powerful opportunity for plaintiffs to file suit in favorable venues based on the legal posture or characteristics of the U.S. affiliate. Take, for example, California. Assuming a foreign corporation has an affiliate within the state and is thereby "doing business within the state," California allows service upon foreign corporations via service on a "general manager" within the state. *See Int'l Shoe Co. v. State of Wash., Off. of Unemployment Comp. & Placement*, 326 U.S. 310, 315 (1945); Cal. Corp. Code § 2110; Cal. C.C.P. § 416.10. To determine whether an employee is a "general manager," courts evaluate whether the agent (1) is "of sufficient character and rank to make it reasonably certain that defendant would be apprised of the service" and (2) has "given [the defendant] substantially the business advantages that it would have enjoyed if it conducted its business through its own offices or paid agents in the state." *Cosper v. Smith & Wesson Arms Co.*, 346 P.2d 409, 412–13 (Cal. 1959); *see also K-fee Sys. GmbH v. Nespresso USA, Inc.*, No. CV 22-525-GW-AGRX, 2022 WL 18278402 (C.D. Cal. July 13, 2022); *LONGi*; *Sweikhart v. Akebono Brake Indus. Co.,* No. B305065, 2021 WL 193311 (Cal. Ct. App. Jan. 20, 2021); *Yamaha Motor Co. v. Superior Ct.*, 94 Cal. Rptr. 3d 494 (2009).

This "general manager" test is, in practice, extremely permissive. For example, in *K-fee*, the court characterized the bar for a general manager as "exceedingly low," focusing on the closeness of the relationship between an individual and the defendant. Similarly, in *LONGi*, the court reasoned that a U.S. affiliate (the company itself, not necessarily a person) was a "general manager" for a Vietnamese parent company (and thus valid agent) because the U.S. entity operated as an import and service agent for the parent, because the chief executive officer of the U.S. entity was a board member of the Vietnamese company, and

because the Vietnamese company responded to the motion, thereby indicating notice of the case. Procedures to serve a corporation must be complied with for service on the subsidiary to be valid. *Id.* at *4. Texas Law, on the other hand, requires that a subsidiary must be "the alter ego of the parent" for service to be valid, which can in some ways be a more onerous requirement. *See, e.g. Fundamental Innovation Sys. Int'l, LLC v. ZTE Corp.*, No. 3:17-CV-01827-N, 2018 WL 3330022, at *3 (N.D. Tex. Mar. 16, 2018).

It is hard to say what implications this method of service might have for potential enforcement in China. On one hand, serving domestic affiliates is not a method of service specifically objected to by China under the Hague Convention, nor is it explicitly a situation stated by the ILCC that would cause Chinese courts to not recognize the judgment (unlike the other situations that would cause non-recognition listed in the ILCC's "frequently asked questions" document here). However, China's Civil Procedure Law lists improper service as a situation where foreign judgments would not be recognized or enforced. Civil Procedure Law of the People's Republic of China (2024), Art. 300(2). Plaintiffs should document the efforts made for service, that the defendant had notice, and that there was compliance with the relevant service requirements in the United States.

Serving Domestic Counsel May Also Be Possible

If a Chinese company has regular U.S. counsel, it may be possible to serve that Chinese company through that counsel. After all, such service would not involve "transmit[ting] a judicial or extrajudicial document for service abroad." Hague Convention, Art. 1. The mechanisms for serving U.S.-based counsel are, in many ways, the same mechanisms for requesting that a court permit email service: A plaintiff must file a motion for alternative service under FRCP 4(f)(3). In some cases, the mere fact that the U.S.-based counsel responded to a complaint could be used to argue that service was proper. *SIMO Holdings, Inc. v. Hong Kong uCloudlink Network Tech. Ltd.*, No. 2:20-CV-00003-JRG, 2020 WL 6578411, at *3 (E.D. Tex. June 15, 2020). And, because such service cannot be analogized to use of "postal channels" such as email, there is a much better chance of enforcing any judgment from such service in China. That said, plaintiffs exploring this option must show due process. For example, attempted service on the defendant's former counsel in terminated cases or in unrelated cases is considered insufficient service from a due-process perspective. *Compare Network Sys. Techs., LLC v. Texas Instruments Inc.*, No. 2:22-CV-000482-RWS, 2023 WL 2743568, at *4 (E.D. Tex. Mar. 31, 2023) *with Orange Elec. Co. v. Autel Intelligent Tech. Corp.*, No. 2:21-CV-00240-JRG, 2022 WL 4125075, at *4 (E.D. Tex.

Sept. 9, 2022). Also, service might be improper if the U.S.-based counsel only represents a subsidiary of a foreign company. *See SIMO* at *3.

Serving via Secretary of State: Legally Dubious for Chinese Companies

One theoretically available option for plaintiffs struggling to serve a Chinese company would be to serve the state's secretary of state, at least insofar as state law provides that the secretary of state serves as an agent for service of nonresidents doing business in the state without a designated agent. On paper, such service seems possible in states like Texas. *See* Tex. Civ. Prac. & Rem. Code Ann. § 17.044 (West). That said, because service on the Texas secretary of state triggers a process whereby a copy of the complaint is mailed to the defendant, courts such as the Eastern District of Texas have found that it triggers the Hague Convention insofar as it involves service via "postal channels." *See Freedom Patents v. TCL Electronics Holding Limited*; No. 4:23-CV-00420, 2023 WL 7414144, at *5 (E.D. Tex. Nov. 9, 2023). BEcause China has objected to service via "postal channels," this seems to suggest that service via this method would be improper, and legally dubious at best.

Due-Process Concerns

Whether serving via email, via a U.S. affiliate, or any other method, plaintiffs must always be prepared to address due-process concerns. Regardless of particular methodology, service of process must be "reasonably calculated" to apprise the interested parties. *See Schlunk*; *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950). Often, due process can be shown through factual proofs that (for example) service was in fact received by a foreign company, that there were established lines of communication between a U.S.-based subsidiary and a Chinese parent company when the subsidiary was served, or the like.

Conclusion

Service on a Chinese entity from abroad is a process that needs to be considered carefully, with an eye both to compliance with U.S. service requirements and potential enforcement in China. The safest and most straightforward way to serve process is still serving the defendant via the Chinese Central Authority. Alternative methods of service, including email, postal mail, or domestic substitute service may be faster, but acceptance of those

methods varies by state, and they also carry the risk of a judgment being unenforceable in China.