

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

CLERK'S OFFICE  
FOREIGN MAILING INSTRUCTIONS



## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
I. Introduction	
A. Purpose	1
B. Methods of Service	2
C. Foreign Sovereign Immunities Act of 1976	3
D. The Hague Convention on “Service Abroad of Judicial and Extrajudicial Documents in Civil & Commercial Matters”	5
II. Procedures for Service Under FRCP 4(f)(2)(C)(ii)	8
III. Foreign Sovereign Immunities Act	
A. Procedures for Service Under 28 U.S.C. § 1608(a)(3)	10
B. Procedures for Service Under 28 U.S.C. § 1608(a)(4)	12
C. Procedures for Service Under U.S.C. § 1608(b)(3)(B)	14
IV. List of Attachments	16

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**INSTRUCTIONS FOR SERVICE OF PROCESS  
ON A FOREIGN DEFENDANT**

The Clerk of Court's Office will accomplish service overseas of the summons and complaint, either directly or through the U.S. Department of State under the following statutes:

1. An **individual in a foreign state**, under Rule 4(f)(2)(C)(ii) of the Federal Rules of Civil Procedures (FRCP); or
2. A **foreign state or a political subdivision of a foreign state** under the Foreign Services Immunities Act, 28 U.S.C. §1608(a)(3); or
3. A **foreign state or a political subdivision of a foreign state through diplomatic channels** via the U.S. Department of State under the Foreign Services Immunities Act, 28 U.S.C. §1608(a)(4); or
4. An **agency or instrumentality of a foreign state**, under the Foreign Services Immunities Act, 28 U.S.C. §1608(b)(3)(B).

**OTHER DOCUMENTS SERVED**

- **Orders**  
An order may be entered by the court at any time during a case. The judge may request that the order be served upon the defendant(s) and should state specifically which rule to follow. An order should be served following the same methods by FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3), 28 U.S.C. §1608(a)(4), or 28 U.S.C. §1608(b)(3)(B), depending on which rule the judge specifies.
- **Defaults**  
A default may be entered by the court against a foreign defendant assuming the summons and complaint was returned unexecuted, AND the deadline for the answer has passed. A foreign state, political subdivision, or an agency or instrumentality of a foreign state has **60 days** to answer the complaint. An individual has **20 days** to answer the complaint. A default should be served according to rule judge specifies to follow: FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3), 28 U.S.C. §1608(b)(3)(B), or 28 U.S.C. §1608(a)(4).
- **Judgments/Default Judgments**  
A default may be entered by the court against a foreign defendant. The judge may request that the order be served upon the defendant(s) and should state specifically which rule to follow. A judgment or default judgment should be served following using: FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3), 28 U.S.C. §1608(a)(4), or 28 U.S.C. §1608(b)(3)(B) depending on which rule the judge specifies.

## METHODS OF SERVICE

The Clerk of Court strongly recommends the use of Federal Express (FedEx) or DHL Worldwide Express (DHL) rather than the United States Postal Service (USPS). The USPS requirements for such service are complicated and failing to comply to their standards, will result in the return of a package delaying its ultimate delivery. Using FedEx or DHL also avoids the necessity of providing the Clerk's Office with cash for postage.

### Rules Set by the U.S. Postal Service

1. Do not use postage meter stamps.
2. Leave more than the exact amount for the postal fee.
3. Do not seal envelopes.
4. Make sure there is glue on the pink return receipt. (Postal Form 2865)  
Mailing labels are not accepted on foreign mailing envelopes. **Addresses must be typed or handwritten on the envelope.**
5. The following envelopes are ineligible for Registered Mail:
  - a. Mail presented in a padded envelope; envelope or mailer manufactured of spun bonded.
  - b. olefin, such as Tyvek; plastic envelope or mailer; or envelope or mailer
  - c. made of glossy-coated paper.
6. Packages weighing more than four pounds must be split up according to post office regulations.

Please check with your local Post Office for the appropriate customs forms as well as updated forms.

### Courier Service

Overnight mail (FedEx & DHL) is acceptable, as long as you are able to obtain a signed returned receipt. You may track the delivery of your package on the courier's website, and print the tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and cover letter to the Clerk of Court as your return of service.

## Foreign Sovereign Immunities Act of 1976

The Foreign Service Immunities Act of 1976 (FSIA) limits the role of the Executive Branch in suits against foreign governments and governmental entities by precluding the Department of State from making decisions on state immunity. A party to a lawsuit, including a foreign state or its agency or instrumentality, is required to present defenses such as sovereign immunity directly to the court in which the case is pending.

FSIA (28 U.S.C. §1608(a)(1)-(4)) provides for service of process on foreign state defendants in a four-step, hierarchical manner: (Source: [www.travel.state.gov](http://www.travel.state.gov))

1. Pursuant to a special agreement between the plaintiff and the foreign state.
2. As prescribed in an applicable international agreement.
3. Via mail from the Clerk of Court to the head of the foreign state's Ministry of Foreign Affairs (28 U.S.C. §1608(a)(3)).
4. Via the diplomatic channel 28 U.S.C. §1608 (a)(4)

### SPECIAL NOTES:

Under 28 U.S.C. § 1608(c)(1) and (c)(2) – Date of Service:

1. In the case of service under 28 U.S.C. § 1608(a)(4), service is deemed to have been made as of the date of the transmittal indicated in the certified copy of the diplomatic note.
2. In any other case under 28 U.S.C. § 1608 service is deemed to have been made as of the date of receipt applicable to the method of service employed.

Under 28 U.S.C. § 1608(e)- Default Judgment

No Judgment by default shall be entered by a court of the United States or of a State against foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the Court. A copy of any such default judgment shall be sent to a foreign state or political subdivision in the manner prescribed for service under 28 U.S.C. §1608.

### Role of the United States Department of State

The United States Department of State, Overseas Citizens Services, Office of Policy Review & Interagency Liaison is responsible for service and implementing regulations under the FSIA via the diplomatic channel in accordance with 28 U.S.C. §1608(a)(4). (Source: [www.travel.state.gov](http://www.travel.state.gov))

The defendant served by the United States Department of State **MUST BE** a FOREIGN STATE OR POLITICAL SUBDIVISION as defined by 1603 of FSIA, not an agency or instrumentality of a foreign state to be served under section 1608(b) of the Act. The United States Department of State **DOES NOT** serve **NATURAL PERSONS** under FSIA. (Source: [www.travel.state.gov](http://www.travel.state.gov) )  
The Act specifies that when service of process upon a foreign state cannot otherwise be effected

under FSIA, the Clerk of Court may dispatch a request to the Secretary of State, attn: Director of Special Consular Services, for service upon a foreign state defendant.<sup>1</sup>

The Act allows for service under FSIA 1608(a) (4) only after 30 days have passed since service was attempted under section 1608 (a) (3) (by any form of mail requiring a signed receipt). The U.S. Postal service and private courier services can deliver documents to virtually any location. Plaintiffs should attempt service under FSIA 1608 (a) (3) unless a foreign state has specifically objected to service by mail.<sup>2</sup>

The U.S. Department of State does not normally serve on a foreign state any documents not specifically mentioned in the Act; however, it reserves executive authority to communicate with foreign governments. Note: a default judgment does **not** include a document(s) directing further hearings on a judgment.<sup>3</sup>

Please review the United States Department of State's "Checklist for Plaintiff's Service of Process Upon a Foreign State." (**Attachment A**). If you have any additional questions regarding 28 USC § 1608(4) mailings, please contact U.S. State Department's Office of Policy Review and Inter-Agency Liaison at [ASKPRI@state.gov](mailto:ASKPRI@state.gov) or (202) 736-9110.

---

<sup>1</sup> U.S. Department of State. "Checklist for Plaintiffs Service of Process upon A Foreign State" [http://travel.state.gov/law/judicial/judicial\\_685.html#](http://travel.state.gov/law/judicial/judicial_685.html#) Accessed May 19, 2011.

<sup>2</sup> U.S. Department of State. "Checklist for Plaintiffs Service of Process upon A Foreign State" [http://travel.state.gov/law/judicial/judicial\\_685.html#](http://travel.state.gov/law/judicial/judicial_685.html#) Accessed May 19, 2011.

<sup>3</sup> U.S. Department of State. "Checklist for Plaintiffs Service of Process upon A Foreign State" [http://travel.state.gov/law/judicial/judicial\\_685.html#](http://travel.state.gov/law/judicial/judicial_685.html#) Accessed May 19, 2011.

# THE HAGUE CONVENTION

## **Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters**

The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters applies in cases wherein the occasion is to transmit a judicial or extrajudicial document for service abroad.

### **Form (USM-94)**

You may obtain a copy of the Request for Service Form from the U.S. Marshal's Service website: [http://www.justice.gov/marshals/process/foreign\\_process.htm](http://www.justice.gov/marshals/process/foreign_process.htm) or you may use the interactive PDF fillable form provided by the Permanent Bureau of the Hague Conference on Private International Law. [http://www.hcch.net/index\\_en.php?act=text.display&tid=47](http://www.hcch.net/index_en.php?act=text.display&tid=47)

### **Complete the Form**

Private litigants wishing to serve a person in one of the Convention countries should complete copies in duplicate of the three forms prescribed by the Convention: The "Request", the "Certificate" and the "Summary." Once the form is completed, the litigants must transmit them, together with the documents to be served. (See FRCP Rule 4 under Notes and Annotations to the Convention).

For further assistance in completing form, please refer to the Bureau of Consular Affairs, U.S. Department of State, [http://www.travel.state.gov/law/judicial/judicial\\_702.html](http://www.travel.state.gov/law/judicial/judicial_702.html) or the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, <http://www.hcch.net/>

### **Federal Authority for Attorneys to Complete and Send Form**

Attorneys representing the party seeking service should execute the portion of Form marked "Identity and Address of the Applicant" and the "Name and Address of the Requesting Authority" portion of the Summary of the Document to be Served, unless the foreign country does not consider private attorneys to be officers of the Court. (<http://www.travel.state.gov>)

**If the Clerk of Court is directed by a court Order to effect service**, the Form should reflect the law firm's information as the "Identity and Address of the Applicant" and the Clerk of Court under the "Name and Address of the Requesting Authority." The Clerk of Court will effect service under FRCP 4(f)(2)(C)(ii), 28 U.S.C. §1608(a)(3); 28 U.S.C. §1608(a)(4) or 28 U.S.C. §1608(b)(3)(B), depending on which rule the judge specifies. Please refer to Sections II and III for service instructions.

**NOTE: For countries that require the form to be executed by an officer of the court, the Clerk of Court may sign and stamp the "Request." Unless directed by a court Order, the forms will be returned to the requestor to effect service abroad. All forms (Request, Certificate & Summary, certified court Order, if applicable) must be brought to the Clerk of Court's Office, Room 120.**

## **Parties to the Hague Convention**

As of February 1, 2011, there are 62 countries (Members & Non-Members) which are party to this Convention:

Albania, Antigua and Barbuda, Argentina, Australia , Bahamas, Barbados, Belarus, Belize, Belgium, Bosnia & Herzegovina, Botswana, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland FYR of Macedonia, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Luxembourg, Malawi, Mexico, Monaco, Netherlands, Norway, Pakistan, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sri Lanka, St. Vincent & The Grenadines, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States, Venezuela. (Source: <http://www.hcch.net>)

## **Foreign States Objecting to Service by Mail**

If a foreign state (party to the Hague Convention) objects to service by mail, service under Section 1608(a)(3) SHOULD NOT BE ATTEMPTED. The plaintiff should proceed under Section 1608(a)(4), directing their cover letter to the Department of State (Office of Overseas Citizens Services), citing the foreign state's objection to service by mail. (Source: [www.travel.state.gov](http://www.travel.state.gov))

As of February 11, 2011, the following countries have objected to service by mail via postal channels under the Hague Convention (Source: [www.hcch.net](http://www.hcch.net))

- |                                 |                           |
|---------------------------------|---------------------------|
| 1. Argentina                    | 15. Macedonia-Republic of |
| 2. Bulgaria                     | 16. Mexico                |
| 3. China (People's Republic of) | 17. Monaco                |
| 4. Croatia                      | 18. Norway                |
| 5. Czech Republic               | 19. Poland                |
| 6. Egypt                        | 20. Russian Federation    |
| 7. Germany                      | 21. San Marino            |
| 8. Greece                       | 22. Serbia                |
| 9. Hungary                      | 23. Slovakia              |
| 10. India                       | 24. Sri Lanka             |
| 11. Japan                       | 25. Switzerland           |
| 12. Korea- Republic of          | 26. Turkey                |
| 13. Kuwait                      | 27. Ukraine               |
| 14. Lithuania                   | 28. Venezuela             |

For definitive up to date information about countries objecting to service by mail, Article 10 (a), see the Status Table of the Service Convention and review the reservations and declarations for each country. (<http://www.hcch.net>)



**NOTE: If a foreign state which is a party to the Hague Service Convention formally objected to service by mail when it acceded to the Convention, service under Section 1608(a)(3) should not be attempted, and the plaintiff should proceed to service under Section 1608(a)(4), citing in the cover letter to the Department of State, Office of Overseas Citizens Services the foreign state's objection to service by mail as noted in its accession to the Hague Service Convention.**

For updated information, please check the following internet links:

- U.S. Department of State's Judicial Assistance: Service of Process Abroad: [http://travel.state.gov/law/judicial/judicial\\_702.html](http://travel.state.gov/law/judicial/judicial_702.html)
- Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters: [www.hcch.net](http://www.hcch.net)

THE INTER-AMERICAN CONVENTION AND ADDITIONAL PROTOCOL: The United States also has a treaty relationship on service with ARGENTINA, BRAZIL, CHILE, COLOMBIA, ECUADOR, GUATEMALA, MEXICO, PANAMA, PARAGUAY, PERU, UNITED STATES, URUGUAY and VENEZUELA. Please see the Department of State's circular on the operations of this Convention at:

[http://travel.state.gov/law/judicial/judicial\\_5219.html](http://travel.state.gov/law/judicial/judicial_5219.html)

**PROCEDURES FOR SERVICE PURSUANT TO  
RULE 4 (f) (2) (C) (ii)**

To serve a defendant pursuant to Rule 4 (f) (2) (C) (ii) of the Federal Rules of Civil Procedure, the Clerk of Court requires you to furnish the following for each case:

- (1) **LETTER of REQUEST:** A letter, addressed to the Clerk of Court, Brenna , requesting the service of documents pursuant to Rule 4 (f) (2) (C) (ii) of the Federal Rules of Civil Procedure. Include in the letter the name(s) and address(es) of the party being served and itemize list of the documents being served.
- (2) **DOCUMENTS:** One (1) copy of the summons and one (1) copy of the complaint (as well as copies of any additional documents filed at the time the case was opened) for EACH defendant; one (1) duplicate copy of all the documents for the Court's file being served on each party.
- (3) Select a method of service for the documents and provide the following:

**A. VIA U.S. POSTAL SERVICE**

1. **ENVELOPE(S):** One envelope, sufficient to hold an entire set of papers, addressed to each party with the **law firm's return address**.
2. **RETURN RECEIPTS:**
  - a. A pink return receipt card (Postal Service Form #2865) made out to the party being served with the return address of the Clerk of Court. On the upper left hand corner of this card you must include both the case number and judge's initials. (**Attachment B**)
  - b. A white return receipt (Postal Service Form #3806) made out to the party being served with the return address of the law firm. (**Attachment B**)
3. **MONEY:** A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

## **B. SERVICE VIA FED-EX OR DHL**

1. ENVELOPE(S): One envelope, per party being served, sufficient to hold an entire set of papers.
2. INTERNATIONAL AIR WAYBILL: Addressed to the party being served with the law firm's account number and return address. (**Attachment C**)
  - Note: CUBA: For special clearance and specific instructions regarding deliveries, please contact DHL directly at (800) 225-5345.
3. Use the appropriate shipping company's website to print a tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and a cover letter to the Clerk of Court as your return of service.

**PROCEDURES FOR SERVICE PURSUANT TO  
28 U.S.C. § 1608(a)(3)  
(Direct Mail)**

To serve an agency or instrumentality of a foreign state pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (3), the Clerk of Court requires you to furnish the following for each case:

(1) **LETTER OF REQUEST:** A letter, addressed to the Clerk of Court, Brenna B. Mahoney, requesting service of the documents pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (3). Include in the letter the name(s), title(s) and address(es) of the person(s) to be served, and specify the documents being served.

(2) **DOCUMENTS:** One (1) copy of the summons, complaint, notice of suit (any additional documents filed at the time case was opened), and affidavit of translator along with translations of each document in the country's official language **for each party/defendant** to be served; and one (1) copy of each of these documents for the Court's file. The notice of suit must be prepared pursuant to 22 CFR §93.2. A copy of these documents must also be tendered to the Clerk's Office along with the other papers mentioned above.

**NOTE: AFFIDAVIT OF TRANSLATOR:** An affidavit from the translator stating his/her qualifications and that the translation is accurate [Rule 2101(b), Civil Practice Law and Rules of N.Y.] for each party being served and one (1) for the Court's file.

(3) Select a method of service for the documents and provide the following:

**A. VIA U.S. POSTAL SERVICE**

1. **ENVELOPE(S):** One envelope, sufficient to hold an entire set of papers, addressed to each party being served with the **law firm's return address**.

2. **RETURN RECEIPTS:**

a. A pink return receipt card (Postal Service Form #2865) made out to the party being served with the return address of the Clerk of Court. On the upper left hand corner of this card you must include both the case number and judge's initials. (**Attachment B**)

b. A white return receipt (Postal Service Form #3806) made out to the party being served with the return address of the law firm. (**Attachment B**)

3. **MONEY:** A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

**B. SERVICE VIA FED-EX OR DHL**

1. ENVELOPE(S): One envelope, per defendant, sufficient to hold an entire set of papers.
2. INTERNATIONAL AIR WAYBILL: Addressed to the party being served, the **law firm's return address** and **law firm's account number.** (Attachment C)
  - Note: CUBA: For special clearance and specific instructions regarding deliveries, please contact DHL directly at (800) 225-5345.
3. Use the appropriate shipping company's website to print a tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and a cover letter to the Clerk as your Return of Service.

**PROCEDURES FOR SERVICE PURSUANT TO  
28 U.S.C. § 1608(a)(4)  
(DIPLOMATIC CHANNELS VIA STATE DEPARTMENT)**

To serve an agency or instrumentality of a foreign state pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (4), the Clerk of Court requires you to furnish the following for each case:

(1) **LETTER OF REQUEST:** A letter, addressed to the Clerk of Court, Brenna B. Mahoney, requesting service of the documents pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (a) (4). You must indicate what measures have been employed to effect service under (a) (1)-(3), e.g., that (a) (3) was attempted by the Clerk's Office on a specified date which was more than 30 days prior to this request and the return receipt has not been received by the Clerk's Office. Include in your letter the name(s), title(s), address(es) of the person(s) to be served and specify the documents being served.

(2) **DOCUMENTS:** For each party to be served, provide two (2) complete sets of the documents in English and the country's official language, and one (1) copy of each of these documents for the Court's file. You **MUST** also include (per party) two (2) copies Notice of Suit English and in the country's official language) plus one (1) copy for the Court's file.

Note: Notice of Suit must be prepared pursuant to 22 CFR §93.2.

(3) **AFFIDAVIT:** An affidavit from the translator stating his/her qualifications and that the translation is accurate [Rule 2101(b), Civil Practice Law and Rules of N.Y.] for each party to be served and one for the Court's file.

(4) **CHECK:** Cashier's check or money order for **\$2,275.00** made payable to U.S. Embassy or Consulate involved. For requests for service upon Iran and its political subdivisions the check or money order should be made out to "U.S. Embassy Bern."

(5) Select a method of service for the documents and provide the following:

**A. VIA U.S. POSTAL SERVICE**

1. **ENVELOPE(S):** One envelope, sufficient to hold an entire set of papers, addressed to: Secretary of State, Attn: Director of Consular Services, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4<sup>th</sup> Floor, 2201 C Street NW, Washington, DC 20520; with the **Clerk of Court's return address.**

2. **RECEIPT CARDS:** Completed Certified Mail Receipt (PS Form 3800) and a completed Domestic Return Receipt Card (PS Form 3811). The forms are addressed to:

Secretary of State, Attn: Director of Consular Services, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4<sup>th</sup> Floor, 2201 C Street NW, Washington, DC 20520. The PS Form 3811 should have the **return address of the Clerk of the Court**. On the upper left-hand corner of this card include the case number and the judge's initials. **(Attachment D & E)**

3. **MONEY:** A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

#### **B. VIA FED-EX OR DHL**

1. **ENVELOPE(S):** One envelope, per defendant, sufficient to hold an entire set of papers.
2. **US AIRBILL:** Addressed to: Secretary of State, Attn: Director of Consular Services, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4<sup>th</sup> Floor, 2201 C Street NW, Washington, DC 20520. **Return address of the Clerk's Office with the law firm's account number.**

Please review the State Department's "Checklist for Plaintiff's Service of Process Upon a Foreign State." (**Attachment A**). If you have any additional questions regarding 28 USC §1608(4) mailings, please contact the U.S. State Department's Office of Policy Review and Inter-Agency Liaison at [ASKPRI@state.gov](mailto:ASKPRI@state.gov) or (202) 736-9110.

**PROCEDURES FOR SERVICE PURSUANT  
28 U.S.C. § 1608(b)(3)(B)**

To serve an agency or instrumentality of a foreign state pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (b) (3) (B), the Clerk of Court requires you to furnish the following for each case:

- (1) LETTER OF REQUEST: A letter, addressed to the Clerk of Court, Brenna B. Mahoney, requesting service of the documents pursuant to the Foreign Sovereign Immunities Act, 28 USC §1608 (b) (3) (B). Include in this letter the name(s), title(s), and address(es) of the person(s) to be served, and specify the documents being served.
- (2) One complete set of documents in English, one complete set of documents in the country's official language for each defendant to be served, and one copy of each of these documents for the court's file.
- (3) An affidavit from the translator stating his/her qualifications and that the translation is accurate [Rule 2101(b), Civil Practice Law and Rule of N.Y.] for each defendant to be served and one for the court's file.
- (4) Select a method of service for the documents and provide the following:

**A. VIA U.S. POSTAL SERVICE**

1. ENVELOPE(S): One envelope, sufficient to hold an entire set of papers, addressed to each party being served with the **law firm's return address**.
2. RETURN RECEIPTS:
  - a. A pink return receipt card (Postal Service Form #2865) made out to the party being served with the return address of the Clerk of Court. On the upper left hand corner of this card you must include both the case number and judge's initials. (**Attachment B**)
  - b. A white return receipt (Postal Service Form #3806) made out to the party being served with the return address of the law firm. (**Attachment B**)
3. MONEY: A sum of cash sufficient for postage and registration and return receipt fees. If the amount of cash tendered is insufficient, you will be contacted and the documents will be held in the Clerk's Office (Room 120) until additional funds are received. Cash for each party to be served must be kept separately.

All mailings are brought to the Post Office on Monday, Wednesday and Friday mornings after 9:00 am. **All documents submitted for mailing must be delivered the previous day no later than 4:00 pm.** You may pick up the change two business days later after 11:00 am. See



page 2 of this document, regarding postal service transactions. As per postal rules, customs form (P.S. Form 2976) must be included when using a letter sized envelope or if the package weighs 1 to 4 pounds. (See page 2 & 3 of this document)

**B. SERVICE VIA FED-EX OR DHL**

1. ENVELOPE(S): One envelope, per party being served, sufficient to hold an entire set of papers.
2. INTERNATIONAL AIR WAYBILL: Addressed to the party being served, the **law firm's return address** and **law firm's account number**. (**Attachment C**)

Note: CUBA: For special clearance and specific instructions regarding deliveries, please contact DHL directly at (800) 225-5345.

3. Use the appropriate shipping company's website to print a tracking summary indicating that the package was delivered to its ultimate destination. Provide a copy of that tracking summary and a cover letter to the Clerk as your Return of Service.

List of Attachments

- A. Checklist for Plaintiff's Service of Process Upon a Foreign State
- B. U.S. Postal Service Form 3806 and Form 2865 Samples (Registered Mail)
- C. FedEx International Air WayBill Sample/ DHL Express Worldwide Sample
- D. U.S. Postal Service Form 3800 Sample (Certified Mail)
- E. U.S. Postal Services Form 3811 Sample(Domestic Return Receipt Card)

# **ATTACHMENT A**

# Checklist for Plaintiffs Service of Process upon a Foreign State

---

**05/04/2011**

The U.S. Department of State is charged, under the Foreign Sovereign Immunities Act (FSIA), with handling service of process upon a foreign state or political subdivision through diplomatic channels. The Act specifies that when service of process upon a foreign state cannot otherwise be effected under FSIA, the clerk of court may dispatch a request to the **Secretary of State, attn: Director of Special Consular Services**, for service upon a foreign state defendant. The Department of State's service functions under the FSIA are currently administered by the **Office of Policy Review and Inter-Agency Liaison, CA/OCS/PRI**.

To avoid confusion and common mistakes, please take note of the following items before submitting a request for service under FSIA 1608(a)(4).

1. The defendant must be a foreign state or political subdivision, as defined in section 1603 of the Act, not an agency or instrumentality of a foreign state (to be served under section 1608(b) of the Act). The U.S. Department of State does not serve **natural persons** under the FSIA.
2. The Act allows for service under FSIA 1608(a)(4) only after **30 days have passed** since service was attempted under section 1608(a)(3) (by any form of mail requiring a signed receipt). The U.S. Postal service and private courier services can deliver documents to virtually any location. Plaintiffs should attempt service under FSIA 1608(a)(3) unless a foreign state has specifically objected to service by mail. To determine whether a particular country objects to service by mail, please see our country-specific judicial assistance information pages at [http://travel.state.gov/law/info/judicial/judicial\\_2510.html](http://travel.state.gov/law/info/judicial/judicial_2510.html).
3. The documents must be **translated** into the official language of the foreign state to be served.
4. The summons sheet and the notice of suit should state a **60 day** (not 20 day) response time for the defendant.
5. The notice of suit (or default) should conform to the requirements of **22 CFR 93.2** (the statute specifically refers to notice of suit "in a form prescribed by the Secretary of State by regulation"). The notice of suit must contain a copy of the FSIA.
6. The Act requires plaintiff to have first attempted service under sections FSIA 1608(a)(1), (2) and (3) before proceeding to section 1608(a)(4). Thus, the U.S. Department of State requires a **statement in writing** from the plaintiff or the clerk certifying that these attempts were made or were otherwise not applicable.

**Attachment A**

7. There should be two copies of either (a) the summons, complaint and notice of suit or (b) a default judgment and notice of default (depending on the request).
8. In cases involving allegations of terrorism, plaintiffs should refer to section 1605(a)(7)(B) regarding arbitration requirements (however, we defer to the court as to the adequacy of any action taken by the plaintiffs in fulfillment of this requirement).
9. The Act requires the clerk of court dispatch the documents; however, a plaintiff may **provide written confirmation** that the court allowed plaintiff to act for the Clerk (after docketing).
10. All requests for FSIA 1608(a)(4) service of process should be addressed to: Director, Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI), U.S. Department of State, SA-29, 4th Floor, 2201 C Street NW, Washington, DC 20520.
11. As of March July 3, 2010, the U.S. Department of State charges, in accordance with 22 CFR 22.1, a **\$2,275 fee** (cashiers check/ money order should be made out to the U.S. Embassy or Consulate involved. For requests for service upon Iran and its political subdivisions the check or money order should be made out to "U.S. Embassy Bern).
12. Clerks who may have further questions regarding these issues may wish to refer to memos from the Administrative Office of U.S. Courts, dated, Nov. 7, 2000, May 20, 1982 and Nov. 6, 1980.

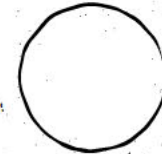
# **ATTACHMENT B**



**Return Receipt for International Mail**  
(Registered<sup>SM</sup>, Insured and Express Mail<sup>®</sup>)

**CASE# :**  
**JUDGES' INITIALS**  
*des Postes des  
Etats-Unis  
d'Amérique*

**Par Avion**



Postmark of  
the office  
returning the  
receipt  
*Timbre du  
bureau  
renvoyant  
l'avis*

Registered No.

Date Stamp

To Be Completed By Post Office	Reg. Fee	
	Handling Charge	Return Receipt
	Postage	Restricted Delivery
	Received by	

Customer Must Declare Full Value \$ Domestic insurance up to \$25,000 is included based upon the declared value. International indemnity is limited. (See Reverse)

**OFFICIAL USE**

To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	LAW FIRM'S ADDRESS
	TO	DEFENDANT'S NAME & ADDRESS

PS Form 3806, **Receipt for Registered Mail** Copy 1 - Customer  
May 2007 (7530-02-000-9051) (See Information on Reverse)  
For domestic delivery information, visit our website at [www.usps.com](http://www.usps.com)

Return by the quickest route (air or surface mail), a découvert and postage free. The sender completes and indicates the address for the return of this receipt. (A remplir par l'expéditeur, qui indiquera son adresse pour le renvoi du présent avis.)

Name or Firm (Nom ou raison sociale) **Brenna B. Mahoney**

A renvoyer par la voie la plus rapide (aérienne ou de surface), **UNITED STATES DISTRICT COURT, EDNY**  
Street and Number (Rue et no.) **225 Cadman Plaza East, Brooklyn, NY 11201**

de **NEW YORK, NY** (ville et pays postal)  
en franchise **UNITED STATES OF AMERICA** *Etats-Unis d'Amérique*

PS Form 2865, March 2007 **Avis de réception** **CN07 (Old C5)**

Completed by the office of origin. (A remplir par le bureau d'origine.)	Item Description (Nature de l'envoi)	<input type="checkbox"/> Registered Article (Envoi recommandé)	<input type="checkbox"/> Letter (Lettre)	<input type="checkbox"/> Printed Matter (Imprimé)	<input type="checkbox"/> Other (Autre)	<input type="checkbox"/> Express Mail International
	<input type="checkbox"/> Insured Parcel (Colis avec valeur déclarée)	Insured Value (Valeur déclarée)	Article Number			
	Office of Mailing (Bureau de dépôt)	Date of Posting (Date de dépôt)				
Completed at destination. (A compléter à destination.)	CHINA TOWN STATION					Postmark of the office of destination (Timbre du bureau de destination)
	Addressee Name or Firm (Nom ou raison sociale du destinataire)					
	DEFENDANT'S NAME & ADDRESS					
	Street and No. (Rue et No.)					
Place and Country (Localité et pays)						
This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination; or, (3) if those regulations so provide, by the employee of the office of destination. This signed form will be returned to the sender by the first mail. (Cet avis doit être signé par le destinataire ou par une personne y autorisée en vertu des règlements du pays de destination, ou, si ces règlements le comportent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement à l'expéditeur.)						
<input type="checkbox"/> The article mentioned above was duly delivered. (L'envoi mentionné ci-dessus a été dûment livré.)					Date	
Signature of Addressee (Signature du destinataire)			Office of Destination Employee Signature (Signature de l'agent du bureau de destination)			



LC557990898US

United States Postal Service  
Customs Declaration **CN 22**  
May be opened officially. See instructions on Reverse.  
Do not duplicate without USPS approval.

**Customs Declaration CN 22 — Sender's Declaration**

I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations. This copy will be retained at the post office for 30 days.

Out  Gift  Commercial sample  Documents  Other

Sender's Name & Address

*Law Firm's Name & Address*

Quantity and detailed description of contents (1)

Weight (2)  
lb. oz.

Value (3)  
(US \$)

Addressee's Name & Address

*Defendant's name & Address*

For commercial items only. If known, HS tariff number (4) and country of origin of goods (5)

Total Weight (6)

Total Value (7)  
(US \$)

I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations.

Date and sender's signature

PS Form 2976, January 2004

Detached from PS Form 2976, January 2004

Post Office Copy

Attachment B

As per the postal rules, a customs form (postal form 2976) must be included when using a letter sized envelope or if the documents to be served are between one and four pounds.



# **ATTACHMENT C**

PACKAGE LABEL  
863629265050

COMMERCIAL INVOICE LABEL  
863629265050

DELIVERY RECORD LABEL  
863629265050

DELIVERY REATTEMPT LABEL  
863629265050

PACKAGE LABEL

COMMERCIAL INVOICE LABEL

DELIVERY RECORD LABEL

DELIVERY REATTEMPT LABEL

**1 From** Please print and press hard.

Date MM/DD/YY Sender's FedEx Account Number **LAW FIRM'S ACCOUNT # 1508 3152 40**

Sender's Name **LAW FIRM'S RETURN ADDRESS** Phone \_\_\_\_\_

Company \_\_\_\_\_

Address **ATTORNEY'S**

Address \_\_\_\_\_

City \_\_\_\_\_ State Province \_\_\_\_\_

Country \_\_\_\_\_ ZIP Postal Code \_\_\_\_\_

**2 To**

Recipient's Name \_\_\_\_\_ Phone \_\_\_\_\_

Company **DEFENDANT'S ADDRESS**

Address \_\_\_\_\_ Dept./Floor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State Province \_\_\_\_\_

Country \_\_\_\_\_ ZIP Postal Code \_\_\_\_\_

Recipient's Tax ID Number for Customs Purposes  
e.g., GST/RFC/VAT/NEIN/ABN, or as locally required.

**3 Shipment Information**  For EU Only: Tick here if goods are not in free circulation and provide C.I.

Total Packages Shipper's Load and Count/SLAC \_\_\_\_\_ Total Weight \_\_\_\_\_ lbs. kg \_\_\_\_\_ DIM L / W / H \_\_\_\_\_ in. cm \_\_\_\_\_

Commodity Description DETAIL REQUIRED	Harmonized Code	Country of Manufacture	Value for Customs REQUIRED
Example: 3-man's knitted sweater, 100 percent cotton.			
<b>LEGAL DOCUMENTS</b>			
<b>COMPLETE IN ENGLISH.</b>			

Has EE/SED been filed in AES? For U.S. Export Only: Check One  No EE/SED required, value \$2,500 or less per Sch. B Number, no license required (NLR), not subject to ITAR.  Total Declared Value for Carriage \_\_\_\_\_ Total Value for Customs (Specify Currency) \_\_\_\_\_

No EE/SED required, enter exemption number: \_\_\_\_\_ If other than NLR, enter License Exception: \_\_\_\_\_

Yes - Enter AES proof of filing citation: \_\_\_\_\_

**4 Express Package Service**

FedEx Intl. Priority  FedEx Intl. First Available to select locations. Higher rates apply.

\_\_\_\_\_  FedEx Intl. Economy FedEx Envelope and FedEx Pak rate not available.

**Packages up to 150 lbs. / 68 kg**  
For packages over 150 lbs. (68 kg), use the FedEx Expanded Service Intl. Air Waybill.

Not all services and options are available to all destinations. Dangerous goods cannot be shipped using this Air Waybill.

**5 Packaging** \*These unique brown boxes with special pricing are provided by FedEx for FedEx Intl. Priority only.

FedEx Envelope  FedEx Pak  FedEx Box  FedEx Tube

Other \_\_\_\_\_  FedEx 10kg Box\*  FedEx 25kg Box\*

**6 Special Handling**

HOLD at FedEx Location  SATURDAY Delivery Available to select locations for FedEx Intl. Priority only.

**7a Payment Bill transportation charges to:**

Sender Acct. No. in Section 1 will be billed.  Recipient  Third Party  Credit Card  Cash Check/ Cheque

Enter FedEx Acct. No. or Credit Card No. below.

FedEx Acct. No. \_\_\_\_\_ Credit Card No. \_\_\_\_\_

FedEx Use Only

Credit Card Exp. Date \_\_\_\_\_

**7b Payment Bill duties and taxes to:** ALL shipments may be subject to Customs charges, which FedEx does not estimate prior to clearance.

Sender Acct. No. in Section 1 will be billed.  Recipient  Third Party

Enter FedEx Acct. No. below.

FedEx Acct. No. \_\_\_\_\_

**8 Your Internal Billing Reference** First 24 characters will appear on invoice.

OPTIONAL

**9 Required Signature**

Use of this Air Waybill constitutes your agreement to the Conditions of Contract on the back of this Air Waybill, and you represent that this shipment does not require a U.S. State Department License or contain dangerous goods. Certain international treaties, including the Warsaw Convention, may apply to this shipment and limit our liability for damage, loss, or delay, as described in the Conditions of Contract. **WARNING:** These commodities, technology, or software were exported from the United States in accordance with Export Administration Regulations. Diversion contrary to U.S. law prohibited.

Sender's Signature: \_\_\_\_\_

This is not authorization to deliver this shipment without a recipient signature.

For Completion Instructions, see back of fifth page.

FedEx Tracking Number **8636 2926 5050** Form ID No. **0402**

**Ship and track packages at fedex.com**

The terms and conditions of service may vary from country to country. Consult our local office for specific information. Non-Negotiable International Air Waybill • ©1994-2006 FedEx

**Questions? Go to our Web site at fedex.com.**  
Or in the U.S., call 1.800.247.4747. Outside the U.S., call your local FedEx office.


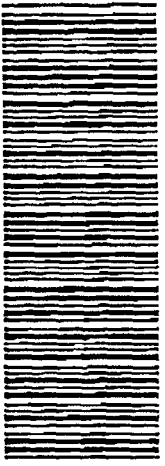

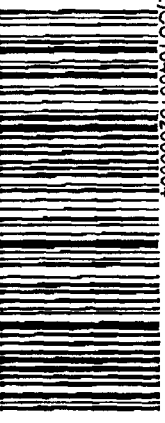
521

PART 158409-Rev. Date 4/06  
©1994-2006 FedEx  
PRINTED IN U.S.A.

RETAIN THIS COPY FOR YOUR RECORDS.

Attachment C

SFB

<b>EXPRESS WORLDWIDE</b>		<b>XPD</b>	
DHL Online			
From:		<b>LAW FIRM'S RETURN ADDRESS</b>	Origin: 27P
To:		<b>DEFENDANT'S ADDRESS</b>	Contact:
<b>CU-HAV-HAB</b>			
<b>SX</b>		Day	Time
Ref: Code: 1131656-0049	Date: 2011-05-04	Ship Weight: 0.5 lb	Pieces: 1/1
<small>These commodities, technology or software were recorded from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.</small>			
		Content: documents	
WAYBILL 75 1005 0822			
			
(2L)CU10400+32000084			
			
(J)J001 3036 3784 7000 9302			

Please fold or cut in half

**DO NOT PHOTOCOPY**

Using a photocopy could delay the delivery of your package and will result in additional shipping charge  
Printed waybills will be invoiced unless the shipment is voided.

**SENDER'S RECEIPT**

WAYBILL #: 75 1005 0822

To: **DEFENDANT'S ADDRESS**

Rate Estimate: \$113.03  
Protection: Asset Protection US 0.00  
Description: documents

Customs Value: 0.00 USD  
Weight (lbs.): 0.5 lb  
Dimensions: 0 x 0 x 0  
Ship Ref: 1131656-0049

Attention To:  
Phone:

Special Svc: Duties and Taxes Unpaid

Sent By:

Phone:

Bill Shipment To: SENDER  
Bill to Acct: 763724894

DHL Signature (optional) \_\_\_\_\_ Route \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

For Tracking, please go to [www.dhl-usa.com](http://www.dhl-usa.com) or call 1-800-225-5345

Thank you for shipping with DHL.

# **ATTACHMENT D**

7011 0470 0001 8689 0532

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



7011 0470 0001 8689 0532

7011 0470 0001 8689 0532

U.S. Postal Service™  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To **SECRETARY OF STATE**  
**ATTN: DIRECTOR OF CONSULAR SERVICES**  
 Street, Apt. No.; **OFFICE OF POLICY REVIEW &**  
 or PO Box No. **INTER AGENCY LIAISON (CA/OCS/P**  
 City, State, ZIP+4 **IS DEPARTMENT OF STATE, 2201 C ST. N**  
 PS Form 3800, August 2006 See Reverse for Instructions

WASHINGTON D, 20520

# **ATTACHMENT E**

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <b>X</b> <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span>	
1. Article Addressed to: <b>SECRETARY OF STATE            ATTN: DIRECTOR OF CONSULAR SERVICES            OFFICE OF POLICY REVIEW &amp;            INTER AGENCY LIASION (CA/OCS/PRI)            U.S. DEPT. OF STATE, SA-29            2201 C STREET NW, 4th Fl            WASHINGTON DC, 20520</b>	B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span>	
2. Article Number (Transfer from service label) <b>TRACKING #</b>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3811, February 2004	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
Domestic Return Receipt	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
102595-02-M-1540		

UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

**Brenna B. Mahoney, Clerk of  
 Court Eastern District of New  
 York 225 Cadman Plaza East  
 Brooklyn, New York 11201**

BACK

CASE NUMBER AND JUDGE'S INITIALS  
 20 CV 1234(XLM)

**Attachment E**