

## CROSS-BORDER LITIGATION

### **Korea joins the Hague Evidence Convention**

Effective in February 2010, Korea became a party to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, commonly known as the Hague Evidence Convention. Korea is the 50th signatory to the Convention, joining the U.S., China, the U.K., Germany, France, The Netherlands, Australia and most of the other advanced nations.

The Convention provides a streamlined official process for seeking testimony, documents and other evidence in the member countries, in the context of civil or commercial litigation. Each country designates a central authority, Korea's being the Ministry of Court Administration, to receive and implement "letters of request" from the judicial authorities of other countries, subject to certain conditions. In executing valid requests from overseas, each country is to apply compulsion to the same extent as it would do for court or government orders, or requests by litigants, arising within its borders.

A member country may elect not to execute requests for the purpose of pre-trial discovery of documents, and Korea has indeed made this election. Korea has also excepted itself from certain provisions of the Convention that would allow for service or dispatch of documents outside the normal conduits.

With other Convention jurisdictions, Korea will obviate the roundabout, time-consuming system that otherwise governs evidence taking and transmission in civil and commercial lawsuits. That system, which remains applicable to non-Convention countries such as Japan, rests on Korean laws including the Act on International Judicial Mutual Assistance on Civil Matters. Among other disadvantages, the traditional system can rely, for the enforcement of evidence requests, only on general principles of comity, rather than the assurance of compulsion under the Convention.

(Note: Korea previously, in 2000, joined the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.)

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