

On 8 March 2023, China officially acceded to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Convention). The Convention entered into force in China on November 7, 2023.

Upon the Convention becoming effective in China,

- Public documents produced in China are only required to be apostilled by a designated competent authority in China before being used in other member states to the Convention. The competent authorities include the Chinese Ministry of Foreign Affairs (MFA) and the foreign affairs offices of provinces, autonomous regions and municipalities as authorised by MFA for public documents emanating from their respective areas.
- Public documents produced in another member state to the Convention are only required to be apostilled by a designated competent authority of such state before being used in China. Consular legalisation by Chinese embassies or consulates in other member states to the Convention is, in theory, no longer required. Designated competent authorities in other member states can be found on the [Hague Conference on Private International Law \(HCCH\) website](#).

## Our Observation

The replacement of consular legalisation with apostille will significantly simplify the verification of public documents between the members of the Convention. Taking foreign investment into China as an example, a certificate of incorporation of the foreign investor must be submitted to the Chinese authorities for the registration of the formation of a foreign-invested company. Before the Convention takes effect in China, such document must be legalised by Chinese embassies and consulates, which may take several weeks, if not months. The apostille process may only take one week. Many Chinese embassies (including those in USA, UK and Singapore) have announced that they will no longer provide consular legalisation services.

It appears, however, that the State Administration for Market Regulation (SAMR) and its local counterparts, the government agency administering corporate registrations and filings to which legalised or apostilled documents should be submitted for registrations of foreign investment, may not be ready to embrace an apostille certificate yet. We consulted the local counterparts of SAMR in multiple locations in China on 8 and 9 November 2023, and we were informed by all such authorities that they were in the process of updating the rules with respect to legalisation and that no detail was available yet. Consequently, such authorities would still require consular legalisation by Chinese embassies or consulates until the relevant SAMR rules are updated. It is anticipated that it may take one to two months for SAMR to release the updated rules.

Due to the pending SAMR rules, we expect that registrations of foreign investment into China may be delayed until an apostille certificate becomes acceptable to SAMR and its local counterparts.

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