

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SOCIEDAD AEROPORTUARIA KUNTUR
WASI S.A.,

Plaintiff,

v.

THE REPUBLIC OF PERU,

Defendant.

No. 24-cv-01977-RJL

MOTION FOR ISSUANCE OF A LETTER ROGATORY PURSUANT TO THE INTER-AMERICAN CONVENTION ON LETTERS ROGATORY

Plaintiff Sociedad Aeroportuaria Kuntur Wasi S.A. (“Plaintiff” or “Kuntur Wasi”), by and through its undersigned counsel, respectfully moves this Court to sign and seal the Inter-American Convention Request Form (the “Request Form”) attached hereto so that Plaintiff may attempt to effect service of process on Defendant the Republic of Peru (“Peru”) pursuant to the Inter-American Convention on Letters Rogatory, Jan. 30, 1975, O.A.S.T.S. No. 43, 1438 U.N.T.S. 288 (the “Convention”), and the Additional Protocol to the Inter-American Convention on Letters Rogatory, May 8, 1979, O.A.S.T.S. No. 56, 1438 U.N.T.S. 372 (the “Additional Protocol”).¹ The Convention and the Additional Protocol are together referred to herein as the “IACAP.”

STATEMENT OF FACTS

1. Plaintiff filed this action on July 8, 2024, to recognize and enforce an arbitral award issued on May 9, 2024, in ICSID Case No. ARB/18/27 in favor of Kuntur Wasi and against Peru following arbitration proceedings conducted in accordance with the Convention on the Settlement

¹ The text of the Convention is available at <https://www.oas.org/juridico/english/treaties/b-36.html> (last accessed on July 15, 2024). The text of the Additional Protocol is available at <https://www.oas.org/juridico/english/treaties/b-46.html> (last accessed on July 15, 2024).

of Investment Disputes between States and Nationals of Other States (the “ICSID Convention”).
See ECF No. 1 (Plaintiff’s Complaint).

2. This Court issued the Summons as to Defendant on July 9, 2024, and Plaintiff now seeks to effect service of process on Peru.

STATEMENT OF POINTS AND AUTHORITIES

3. The Foreign Sovereign Immunities Act (“FSIA”) governs service of process on a foreign state. 28 U.S.C. § 1608(a); *see also* Fed. R. Civ. P. 4(j)(1). Under the FSIA, service shall be made “in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision” or, in the absence of such an agreement, “by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents.” 28 U.S.C. § 1608(a)(1)-(2).

4. Both the United States and Peru have ratified the IACAP,² which is an “international convention on service of judicial documents” within the meaning of 28 U.S.C. § 1608(a)(2). As noted by the United States Department of State, the IACAP “[r]eplac[es] the traditional letters rogatory process” among its state parties and “provides a mechanism for service of documents by a foreign central authority.”³ Under the IACAP, the Central Authority of the state of origin sends a letter rogatory to the Central Authority of the state of destination, which “shall transmit the letter rogatory to the appropriate judicial or administrative authority for processing in accordance with the applicable local law.” *See* Additional Protocol, Art. 4.

² The United States signed the Convention on April 15, 1980, and ratified it on November 10, 1986; Peru signed the Convention on January 30, 1975, and ratified it on July 5, 1977. *See* <https://www.oas.org/juridico/english/Sigs/b-36.html> (last accessed on July 15, 2024). The United States signed the Additional Protocol on April 15, 1980, and ratified it on November 10, 1986; Peru signed the Additional Protocol on May 8, 1979, and ratified it on April 9, 1980. *See* <https://www.oas.org/juridico/english/Sigs/b-46.html> (last accessed on July 15, 2024).

³ Inter-American Service Convention and Additional Protocol, United States Department of State, available at <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/international-judicial-asst/Service-of-Process/Inter-American-Service-Convention-Additional-Protocol.html> (last accessed on July 15, 2024).

5. In order to effect service under the IACAP, Plaintiff must submit the Request Form with the Court's signature and seal to ABC Legal, a private contractor hired by the U.S. Department of Justice, Office of International Judicial Assistance (the U.S. Central Authority), to carry out its service functions under the IACAP. *See* Office of Int'l Judicial Assistance, U.S. Dep't of Justice, Guidance on Service Abroad in U.S. Litigation (last updated Oct. 1, 2018) at 5-7.⁴ The Request Form is the official form necessary to effectuate service under the IACAP.

6. A completed Request Form is attached hereto as **Exhibit A**. The document calls for the "Signature and stamp of the judicial or other adjudicatory authority of the State of origin." To authenticate the form, Plaintiff requires the Court's signature and seal on pages 2 and 5, where there is a designated space for the "Signature and stamp of the judicial or other adjudicatory authority of the State of origin."

7. As required by the Convention, Plaintiff has prepared Spanish translations of the documents to be served that were not originally in Spanish and will obtain a Spanish translation of the Request Form once this Court has signed and sealed the original. *See* Convention, Art. 5(b).

WHEREFORE, Plaintiff respectfully requests that the Court grant this Motion and sign and seal the attached Request Form so that Plaintiff may proceed with service on Peru under the IACAP.

Dated: New York, New York
July 16, 2024

Respectfully submitted,

/s/ Thomas C.C. Childs
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⁴ Available at: <https://www.justice.gov/civil/page/file/1064896/download> (last accessed on July 15, 2024).

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