

China Legal Briefing*287

3 April 2023



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I. Interpretation of New Changes — China’s Accession to the Apostille Convention

On March 8, 2023, China formally submitted the instrument of accession to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (hereinafter the “**Convention**”) to the Dutch Ministry of Foreign Affairs, the custodian of the Convention. This marked China's formal accession to the Convention. On November 7, 2023, the “Convention” will come into effect in China.

As globalisation continues to bring countries closer together, there is a growing consensus among nations to streamline the certification process for the cross-border circulation of documents and facilitate their exchange. The Convention is a significant step towards achieving this goal.

On October 5, 1961, the Hague Conference on Private International Law (HCCH) passed the draft Convention at its ninth session, and it came into force on January 24, 1965. Since then, this old system has been functioning among many member states and benefiting businesses all over the world for decades. Up to now, there are 124 member states (regions), including Hong Kong, Macao, the UK, the US, France, Germany, Russia, Japan, and South Korea. The Convention is an important international treaty with the widest scope of application and the largest number of contracting members under the HCCH framework. But unfortunately, China has not decided to accede to it only until now.

The Convention has two fundamental components: “Cancellation” and “Apostille”. “Cancellation” provides that the Contracting States shall exempt instruments falling within the scope of application of the Convention from authentication; “Apostille” requires the competent authority of the issuing country to provide an Apostille Certificate that verifies the identity, signature, and relevant seals of the signatory who performed their official duties. The Convention replaces the traditional lengthy and costly chain of consular

certification with a single-step certification process, which is much simpler and more efficient.

Article 12 of the Convention states that: *“Any State not referred to in Article 10 may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 11. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands. Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the **six months** after the receipt of the notification referred to in sub-paragraph d) of Article 15. Any such objection shall be notified to the Ministry of Foreign Affairs of the Netherlands. The Convention shall enter into force as between the acceding State and the States which have raised no objection to its accession on the **sixtieth day** after the expiry of the period of **six months** mentioned in the preceding paragraph.”*

According to the above article, the Convention will come into effect between China and other member states (with the exception of those that have raised objections) starting from November 7, 2023, which is six months plus 60 days after March 8, 2023. As there is no reason to expect Switzerland to raise an objection.

Before the Convention comes into force for China, its habitual requirement for notarisation and legalisation of many even minor, less important documents has been adding significant expenses to daily business operations and certainly has been a steady stream of revenue for Chinese consulates overseas. Wenfei Law understands that our clients frequently required our assistance with this complex, lengthy, and expensive process.

Thankfully, the implementation of the Convention in mainland China from November 7, 2023, is a significant development that is expected to bring businesses numerous advantages and opportunities. The use of Apostille Certificates will simplify the document certification process, saving time and

reducing costs for individuals and businesses who need to present documents across borders. This is expected to create a more efficient and seamless system, aiming to facilitate international trade and investment and enhance cooperation between China and other member states.

With the adoption of the Convention, China is trying to show its commitment to international cooperation and to promoting economic and social development. Overall, the implementation of the Convention is a positive step toward a more connected and prosperous global community and will greatly facilitate overseas businesses in China, if the implementation of the Convention in China can be effectively and efficiently achieved nationwide, which remains to be seen.

Click here to access [the Convention Abolishing the Requirement of Legalisation For Foreign Public Documents](#).

II. Interpretation of New Rules — the new 2022 Market Access Negative List

The National Development and Reform Commission (NDRC) and the Ministry of Commerce of the People's Republic of China issued the latest edition of the “Market Access Negative List (2022)” on 03 December 2022, which replaces the previous edition of the “Market Access Negative List (2020)” and will take effect immediately upon issuance. This article aims to provide an overview of the key changes in the new list for foreign companies doing business in China.

Since the implementation of the negative market access list system in December 2018, there have been three updates in 2019, 2020, and 2022 respectively, resulting in a reduction of about 23% of items from the initial list of 151 items in 2018 to the current list of 117 items. The latest revision focuses mainly on the service industry, particularly in the areas of finance, education, scientific research, and information consulting. The changes aim for a greater emphasis on market-oriented operations and a reduction in administrative approval.

Compared to the 2020 version, the 2022 list includes several notable changes (the reduction is reflected in the “license access category”):

- In the financial industry section, businesses such as the prohibition of issuing stocks or carrying out specific mergers and acquisitions of listed companies have been removed;
- In the education section, the prohibition on security training businesses has been lifted;
- The construction and testing of lightning protection devices in limited areas are now permitted under the water conservancy and public facilities management section;
- In the scientific research and technical services section, the specific engineering technical service business and engineering survey certification and evaluation business have been merged and optimised;
- In the leasing and business service industry, accounting, information consulting, foreign-related investigation, and other businesses have been merged or split for greater clarity.

In conclusion, the latest edition of the Market Access Negative List (2022) is supposed to be another step towards creating a more open and attractive business environment in China, particularly for foreign enterprises. The reduction in administrative approval and the increased emphasis on market-oriented operations aim to provide greater flexibility and opportunities for businesses in China.

Click the link to access the [Market Access Negative List \(2022\)](#).

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