

# APOSTILLES & LEGALIZATION

a CLE presentation by

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THE BASICS:

APOSTILLES

VS.

LEGALIZATIONS

## What does it mean to legalize a document?

- Essentially, it is a chain of signature authentications, often beginning with the notarized signature of an individual and ending with authentication by an embassy or consulate.
- This is done so the **recipient in another country will accept the document as valid.**

## What is an apostille?

- “Apostille” is a French word for “certification”.
- An apostille is an authentication certificate produced under the Hague Convention abolishing the need to legalize documents (Convention 12).

## What is the purpose of Convention 12 of the Hague?

- The purpose is to simplify the legalization process.
- Member countries agree to recognize one another's documents without legalization.
- Convention went into effect October 5, 1961.

## Who are the members of this Convention?

- A list of members can be found at [www.hcch.net](http://www.hcch.net).
- Be sure to look at this specific convention. Countries can be members of some conventions and not others.
- Examples: United States, Mexico, Russia

# What kinds of documents can be apostilled or legalized?

- ORIGINAL **notarized documents** (non-recordable documents)
- Examples:
  - Powers of Attorney
  - Secretary's Certificates
  - Contracts

- ORIGINAL documents **produced by a governmental official** at the county-, state-, or federal-level
- Examples:
  - certified copy of a divorce decree from a county clerk
  - Good Standing from the Secretary of State
  - certified copy from the US Patent & Trademark Office



## Acknowledgements & Notarization

- Most states commission notaries at the state-level; others at the county-level.
- Some states are picky about acknowledgement language.
- Notary handbooks found online are a good resource for state-specific wording.

## Acknowledgements & Notarization, Continued

- Some states require that the notary sign the document as their name is listed on their stamp (i.e. with or without their middle name, etc.).
- If a document refers to attachments, it is good to make sure those documents are indeed attached.

# APOSTILLES

# Model Apostille

<b>APOSTILLE</b>	
(Convention de La Haye du 5 octobre 1961)	
1. Country: .....	
This public document	
2. has been signed by .....	
3. acting in the capacity of .....	
4. bears the seal/stamp of .....	
.....	
<b>Certified</b>	
5. at .....	6. the .....
7. by .....	
.....	
8. N° .....	
9. Seal/stamp: .....	10. Signature: .....
.....	

## Appearance of Apostilles

- The certificate must be in the form of a square with sides that are at least 9 centimeters in length.
- All ten elements must be included.
- Must be signed by a competent authority from the jurisdiction of issuance.

## Appearance of Apostilles, Continued

- Some issuing authorities list the country in which the document will be used on the apostille.
- Many countries refuse to legalize documents once they become party to the Hague.
- Other countries will continue to legalize under certain circumstances (usually relating to importing and exporting goods).

NEVER remove an apostille!

Removing the apostille or  
anything relating to a legalization  
renders it invalid!

# Texas – Sample Apostille



The State of Texas  
Secretary of State

Requested for use in MEXICO  
Not for use within the United States of America  
This Apostille only certifies the signature, the capacity of the signer and the seal or stamp it bears. It does not certify the content of the document for which it was issued.  
Certificate Validation available at [www.sos.state.tx.us](http://www.sos.state.tx.us)

## APOSTILLE

(Convention de La Haye du 5 Octobre 1961)

- |                                |                               |
|--------------------------------|-------------------------------|
| 1. Country                     | United States of America      |
| This public document           |                               |
| 2. has been signed by          | Stephanie L. Tristan          |
| 3. acting in the capacity of   | Deputy County Clerk           |
| 4. and bears the seal/stamp of | Harris County, State of Texas |

## CERTIFIED

- |                                       |                       |
|---------------------------------------|-----------------------|
| 5. at Austin, Texas                   | 6. on January 9, 2014 |
| 7. by the Secretary of State of Texas |                       |
| 8. Certificate No. 10060010           |                       |
| 9. Seal                               | 10. Signature:        |



*Nandita Berry*

Nandita Berry  
Secretary of State

GF/mr



## Texas – Cost and Procedure

- The Texas Secretary of State's office takes 3-5 days if you send it directly to them; they will process it while a runner waits if it is walked in.
- The statutory fee is \$15 for most documents.
- Apostilles for adoptions are only \$10 each and the total is capped at \$100 per child.

## Texas – Cost and Procedure (Continued)

- The apostille will be attached to the page where the notary signed.
- Texas has no issue with the document being in Spanish.
- Notary must date his or her signature (even if the document contains a date elsewhere).

## Texas – Cost and Procedure (Continued)

- As long as the Texas Secretary of State still has the clerk's signature on file in their office, they will not reject a certified copy of a recordable document because it is too old.
- The Secretary of State requires that an Account Status have a gold seal to be apostilled or authenticated; the printout from the Comptroller's website does not suffice.

## Texas – Common Causes for Rejection

- Notary not dating his/her signature.
- Notary attempting to certify recordable documents.
- Presenting documents that don't have original signatures.

## Delaware

- When we obtain corporate documents from the Delaware Secretary of State that will be apostilled or legalized, the State requires that each document be certified (and apostilled) separately.
- This is the only time that Delaware produces paper copies of documents. A gold seal is also added.

## New York

- Notaries are commissioned by the Secretary of State's office.
- Once the Secretary of State's office has accepted the application, they forward the commission, the original oath of office, and a signature specimen to the county clerk of the county in which the notary maintains their residence.

## New York, Continued

- The county clerk verifies the authenticity of documents notarized in their county, then documents go on to the Department of State for apostilles or certificates of authentication.
- A notary can register their commission in additional counties so that documents can be authenticated where it is more convenient to do so.

## New York, Continued

- On the notary's stamp, the county they were "qualified in" is their county of residence; additional counties are noted as "certificate filed in....".



## Federal Documents

- Examples: certified copies from the U.S. Patent & Trademark Office, FBI background checks, consular reports of birth abroad, IRS residency certifications (form 6166)
- These federal documents are apostilled by the U.S. Department of State.

## e-Apostilles: The Future

- Some countries are moving toward issuing apostilles in an electronic format with a digital signature.
- The Kansas Secretary of State's office published a news release on November 19, 2013 saying that it was the first in the world to send an e-Apostille. The document was sent electronically to Colombia and was officially accepted there.

## e-Register

- In some jurisdictions, one can authenticate an apostille online.
- U.S. examples: California, Colorado, North Carolina, Rhode Island, Texas, Washington, and West Virginia
- International examples: Ireland and New Zealand

LEGALIZATION


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## Authentication Certificates

- Notarized documents need a certificate authenticating the notary before they can be legalized.
- Documents produced by a governmental agency also need an additional certification by the relevant state before certification.

# Texas – Sample Notary Authentication Certificate




The State of Texas  
Secretary of State

I, Nandita Berry, Secretary of State of the State of Texas, DO HEREBY  
CERTIFY that according to the records of this office,

JOHN DOE

was commissioned as a Notary Public for the State of Texas on July 12,  
2010, for a term ending on July 12, 2014.

Issued: February 25, 2014  
Certificate Number 11111111



Nandita Berry  
Secretary of State


GF/ss

## Authentication – Texas

- Corporate documents (Certificates of Fact/Existence and certified copies of articles with amendments) produced by the Texas Secretary of State's office get a "Round-Robin" certificate and a letter from the clerk explaining that Texas copies are black-and-white. The documents are bradded together.

# Texas – Sample “Round Robin” Certificate

Division  
78707  
Texas 78711-3697




Nandita Berry  
Secretary of State

Office of the Secretary of State

UNITED STATES OF AMERICA                      EXECUTIVE DEPARTMENT  
STATE OF TEXAS

I, Rick Perry, Governor of the State of Texas, DO HEREBY CERTIFY that Nandita Berry, who signed the foregoing certificate was at the time of signing the same, and is now, Secretary of State of the State of Texas, duly appointed and qualified, and that full faith and credit are due the Secretary's official attestation; that the Secretary is the custodian of the attached document and authorized by law to certify to the same, and that the same is in due form and by proper authority; and that the Secretary is the custodian of the Great Seal of the State of Texas.




IN TESTIMONY WHEREOF, I hereunto set my hand. Done at the City of Austin on February 13, 2014.

*RICK PERRY*  
\_\_\_\_\_  
Governor

UNITED STATES OF AMERICA                      OFFICE OF THE SECRETARY OF STATE  
STATE OF TEXAS

I, Nandita Berry, Secretary of State of the State of Texas, DO HEREBY CERTIFY that Rick Perry, who signed the foregoing certificate was at the time of signing the same, and is now, Governor of the State of Texas, duly elected and qualified, and that as such, full faith and credit are, and ought to be given to the Governor's official attestations; and I FURTHER CERTIFY that under the Constitution and laws of the State of Texas, the Secretary of State is the custodian of the Great Seal of the State of Texas.



IN TESTIMONY WHEREOF, I hereunto set my hand. Done at the City of Austin on February 13, 2014.

*NANDITA BERRY*  
\_\_\_\_\_  
Secretary of State

Come visit us on the internet at <http://www.sos.state.tx.us/>

Phone: (512) 463-5555                      Fax: (512) 463-5709                      Dial: 7-1-1 for Relay Services  
Prepared by: Simona Dehoyoz                      TID: 10263                      Document: 529339490002



## Authentication – Delaware

- The Delaware Secretary of State's office does not add an authentication certificate when documents are being legalized. A gold seal is added, but nothing else.



## Concept of Jurisdiction

- If a country has more than one embassy or consulate in the United States, each embassy or consulate will have jurisdiction over a group of states.
- A consulate can recognize the signature of the Secretaries of State within their jurisdiction directly (without the U.S. Department of State's certification).

## U.S. Department of State

- The State Department used to allow the public to wait for their certificates and we were able to get them same-day. The documents now must be dropped off and picked up in 3-4 days.
- All documents must have an English translation.
- If the document contains language about boycotting Israel, the State Department will reject the document.


## U.S. Department of State, Continued

- Even if the embassy has jurisdiction over the state in which the document was produced, most DC embassies still require the State Department's certification.
- Delaware certified copies can be combined at the U.S. Department of State. (Exception: China)

# U.S. Department of State – Sample Certificate

14018071-5

United States of America



**DEPARTMENT OF STATE**

*To all to whom these presents shall come, Greetings:*

I Certify That the document hereunto annexed is under the Seal of the State(s) of Texas, and that such Seal(s) is/are entitled to full faith and credit.\*

*\*For the contents of the annexed document, the Department assumes no responsibility  
This certificate is not valid if it is removed or altered in any way whatsoever*

In testimony whereof, I, John F. Kerry, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Assistant Authentication Officer, of the said Department, at the city of Washington, in the District of Columbia, this eighteenth day of February, 2014.

*John F. Kerry*  
Secretary of State

By \_\_\_\_\_  
Assistant Authentication Officer,  
Department of State

Issued pursuant to CHXIV, State of Sept. 15, 1789, 1 Stat. 68-69; 22 USC 2657; 22 USC 2651a; 5 USC 301; 28 USC 1733 et. seq.; 8 USC 1443(f); RULE 44 Federal Rules of Civil Procedure.

## Legalizations

- Most legalizations are done in the form of a stamp or sticker added to the document. Ribbons are occasionally added to the document.
- Many embassies place their legalization stamp on the back of the State Department's certificate.

SPECIAL

CONSIDERATI

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# Passports

- Passports are usually handled one of two different ways –
  - The owner of the passport makes a statement that it is a true-and-correct copy and that statement gets a normal acknowledgement and notarization.
    - or -
  - The notary makes a statement that it is a true-and-correct copy.



## Passports, Continued

- In order to prevent rejection, it is important to inquire how the state in which the person is located wants passports to be handled.

## United Arab Emirates

- The UAE is the most expensive embassy, charging \$600 for most business documents.
- Personal documents are only \$45.
- Certificates of Good Standing and Certificates of Fact or Existence are only \$45; certified copies of corporate documents are \$600.

## United Arab Emirates, Continued

- This is a prime example of why it is so beneficial to combine Delaware certified copies into one document before submitting them to the U.S. Department of State.

## China

- Two Special Administrative Regions (Hong Kong and Macau) are part of the Hague; the rest of the country is not.
- Many of the consulates are challenging, so we tend to legalize most documents in DC.
- Requires use of the G1 form, regardless of location.

# China – G1 Form

**中华人民共和国驻外使领馆公证认证申请表**  
**Application Form of Notarization/Legalization of the Embassy/Consulate of the People's Republic of China**

**1. 个人申请 Applicant (For Individual Use Only)**

姓名 Name	中文: English:	性别 Gender	<input type="checkbox"/> 男 M <input type="checkbox"/> 女 F	出生地点 Place of Birth	
出生日期 Date of Birth	____年____月____日 DD MM YY	国籍 Nationality		职业 Occupation	
身份证件种类 Type of ID		身份证件号码 Number of ID			
联系地址 Address		电话 Tel.			
代理人姓名 Name of Agent	中文: English:	性别 Gender	<input type="checkbox"/> 男 M <input type="checkbox"/> 女 F	国籍 Nationality	
身份证件种类 Type of ID		身份证件号码 Number of ID		与申请人的关系 Relationship to the Applicant	
联系地址 Address		电话 Tel.			

**2. 企业及其他组织申请 Applicant (For Company/Organizations Use Only)**

企业或其他组织名称 Name of Company/Organization					
联系地址 Address		电话 Tel.			
代理人姓名 Name of Agent	中文: English:	与企业/其他组织的关系 Relationship			
身份证件种类 Type of ID		身份证件号码 Number of ID			
联系地址 Address		电话 Tel.			

**3. 公证、认证的内容 Content of Notarization / Legalization**

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**4. 公证、认证的使用目的 Purpose of Notarization / Legalization**

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**5. 提交材料及申办公证认证的份数 Appendix and Copies of Notarization / Legalization**

	份数 Copies	
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**6. 申请人/代理人声明 Declaration of the Applicant/Agent**

我保证以上所填内容真实, 如有不实之处, 本人愿承担一切法律责任。  
 I hereby declare that all the information above is true and correct, for which I shall bear all the legal responsibilities.

申请人 / 代理人签名: \_\_\_\_\_ 申请日期: \_\_\_\_\_  
 Signature of Applicant / Agent: \_\_\_\_\_ Date of Application: \_\_\_\_\_

发证机关专用栏 For Official Use Only	报案人、报案日期:	公(认)证号:	签署人、签署日期:
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## China, Continued

- The G1 form changed several months ago. Be sure you are using the current form.
- DC requires an *original* G1, plus a copy of the driver's license or passport of the person signing the form.
- China is one of the few embassies that offer expedited service. Routine legalizations are \$50; expedited service is an additional \$20.

## Angola

- The Angolan embassy requires a Portuguese translation of all pages of the document (including the Secretary of State and U.S. Department of State's certificates).
- Angolan Portuguese has a slightly different vocabulary than other types of Portuguese, so it is important to make sure your translator is aware that you need the document to be in Angolan Portuguese.

## Liberia

- Liberia joined the Hague in 1995. The United States, Belgium, and Germany raised an objection to their accession.
- Documents that were produced in the United States and will be used in Liberia will need to be legalized (not apostilled).



## Liberia, Continued

- The Texas Secretary of State's office is inconsistent and vacillates between affixing an apostille and an authentication certificate to documents.

## Indonesia

- Despite the fact that the consulate in Houston has jurisdiction over ten states, they will only legalize a document if it contains a Texas address.
- If the document does not include a Texas address, they will accept a letter with a Texas address explaining the purpose of the document.

## Egypt

- The Egyptian consulate in Houston requires that Powers of Attorney and Authorizations of Agent go to the U.S. Department of State for their certificate prior to being submitted for legalization.
- All other types of documents can be legalized there without the State Department's certificate.

# EXAMPLES

## Scenario I

You have a Power of Attorney that was notarized  
in Texas and needs it to be legalized for use in  
the United Arab Emirates.

What do you do?

## Question 1: Is the UAE party to Convention 12 of the Hague?

You check the list on the Hague's website and learn that they are NOT party to the convention. The document will need to be legalized.

## Question 2: Where do you send it first?

Since the document was notarized in Texas, it would go to the Texas Secretary of State's office.

### Question 3: Where does it go after the Secretary of State's office?

The UAE only has one embassy/consulate in the United States and it is in DC.

### Question 4: Does the UAE embassy require that the document go to the U.S. Department of State first?

Yes.

# Path of POA Being Legalized for Use in the United Arab Emirates

Texas Secretary of State



U.S. Department of State



UAE Embassy



## Scenario II

You have been given a Secretary's Certificate  
that was notarized by a New York County notary  
and will be used in Mexico.

What now?

## Question 1: Is Mexico party to Convention 12 of the Hague?

Yes, indeed! The document will get an apostille. (Woo-hoo!!)

## Question 2: Do New York documents need to go to the county before going to the Department of State for an apostille?

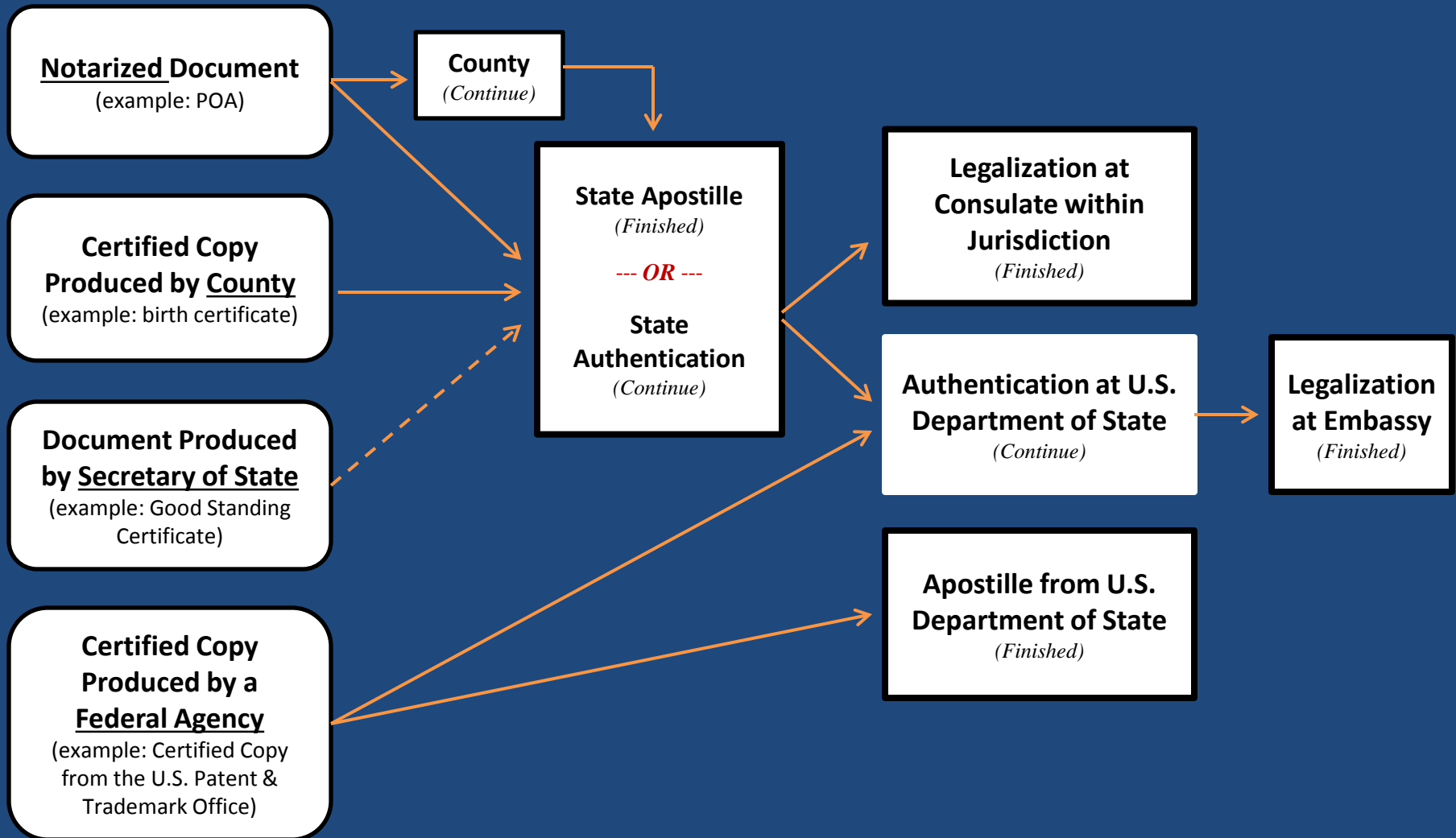
Yes.

## Scenario III

You have a contract notarized by an Alberta notary and are told to get it ready for use in Argentina.

Can it just be apostilled?

# Authentication Paths of Four Common Document Types



## Resources

Hague website:

[www.hcch.net](http://www.hcch.net)

U.S. Department of State:

<http://travel.state.gov/content/travel/english/legal-considerations/judicial/authentication-of-documents/office-of-authentications.html>

QUESTIONS?

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