

White Rock Ins. (SAC) Ltd. v China Constr. Bank Corp.

2026 NY Slip Op 30403(U)

February 3, 2026

Supreme Court, New York County

Docket Number: Index No. 654432/2024

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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WHITE ROCK INSURANCE (SAC) LTD,

Plaintiff,

- v -

CHINA CONSTRUCTION BANK CORPORATION, CHINA
CONSTRUCTION BANK NEW YORK BRANCH, and
CHINA CONSTRUCTION BANK (ASIA) CORPORATION
LIMITED,

Defendants.

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INDEX NO. 654432/2024

MOTION DATE _____

MOTION SEQ. NO. 007

**DECISION + ORDER ON
MOTION**

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 007) 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 153, 154, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168

were read on this motion to/for DISCOVERY.

In motion sequence 007 China Construction Bank Corporation (CCBC) moves pursuant to 28 U.S.C. § 1781 and the Hague Convention for the court to execute CCBC’s proposed Letter of Request under the Hague Convention to obtain CCBC’s own documents from its offices in the People’s Republic of China (PRC or China). (See NYSCEF Doc. No. 130, Order to Show Cause [OSC].) Specifically, CCBC asks this court to request that “the Ministry of Justice ... of the People’s Republic of China..., by proper and usual process of any competent authority within the PRC, authorize CCBC to collect information located at CCBC’s Head Office in Beijing and at its Shanghai Branch.” (NYSCEF 133, Letter of Request at 10/53.) Based on plaintiff’s requests, CCBC will request the following 10 categories of documents:

- “1. The policies and procedures, if any, of CCBC’s Headquarters and Shanghai Branch for issuing cross-border letters of credit (‘LOCs’) in effect during the time period July 1, 2021 to August 27, 2024.
2. The policies and procedures, if any, of CCBC’s Headquarters and Shanghai Branch for verifying cross-border standby LOCs in effect during the time period July 1, 2021 to August 27, 2024.
3. The document and email retention policies and procedures of CCBC’s Headquarters and Shanghai Branch in effect as of August 27, 2024.
4. Emails to, from, copying or referencing Mr. Chun-Yin Lam from the time period July 1, 2021 to July 13, 2023.
5. The ‘23 LOCs [letters of credit] totaling over \$1.3 billion on CCB letterhead with a New York address and payable in New York,’ as identified in paragraph 20 of the Plaintiff’s Amended Complaint.
6. Non-privileged documents referencing the LOCs identified in category 5.
7. Emails to, from, copying or referencing Old American County Mutual, the entity identified in paragraph 32 of the Plaintiff’s Amended Complaint, or any person or entity acting on its behalf, from the time period July 1, 2021 to July 13, 2023.
8. Documents to, from or referencing Plaintiff from the time period July 1, 2021 to July 13, 2023.
9. Documents to, from or referencing Vesttoo from the time period July 1, 2021 to July 13, 2023.
10. Documents to, from, copying or referencing Yu Po Holdings Limited, Virginia Lee, Alan Wang or David Fu or an email address gaber.ta@proton.me from the time period July 1, 2021 to July 13, 2023.” (*Id.*)

CCBC explains that it “cannot produce any responsive documents located in China . . . without prior approval from the relevant PRC authorities, as the production of those documents outside the PRC is prohibited under applicable Chinese law.”

(NYSCEF 131, CCBC’s MOL at 5/21 [NYSCEF pagination].) The motion is denied.

Since the parties agree that discovery should proceed, but disagree as to which discovery procedure applies, CCBC has the “burden of demonstrating that [the parties] must resort to the procedures outlined in the Hague Convention for discovery purposes”

instead of “New York’s discovery rules and procedures.” (*Erbach Fin. Corp. v Royal Bank of Can.*, 199 AD2d 87, 87 [1st Dept 1993].)¹

“The Hague Convention procedures are merely a permissive supplement to other means of foreign discovery, not exclusive and mandatory. Nor are litigants required to use them as a first resort, because the procedures would in some cases be unduly time consuming and expensive, as well as less certain to produce needed evidence than direct use of the Federal Rules.” (*Skillz Platform Inc. v Papaya Gaming, Ltd.*, 753 F Supp 3d 347, 353 [SD NY 2024] [quoting *Societe Nationale Industrielle Aerospatiale v United States Dist. Ct. for S. Dist.*, 482 US 522, 539-40, 529, 536, 542 (1987)], *reconsideration denied*, 2024 US Dist LEXIS 212855, 2024 WL 4839405 [SD NY, 2024].)

Accordingly, the court rejects CCBC’s suggestion that this court is “mandate[d]” to execute the Letter or Request. (NYSCEF 131, CCBC’s MOL at 16/21 [NYSCEF pagination]; *see also Societe Nationale Industrielle Aerospatiale*, 482 US 522, 539-540 [1987] [“the Hague Convention d[oes] not deprive the [] Court of the jurisdiction it otherwise possessed to order a foreign national party before it to produce evidence physically located within a signatory nation.”].)

To determine if the Hague Convention’s protective measures should govern CCBC’s compliance with its discovery obligations in this action, the court considers five factors “relevant to the comity analysis: (1) the importance of the requested information to the litigation; (2) the specificity of the requests; (3) whether the information originated in the U.S.; (4) whether there are ‘alternative means of securing the information’; and (5) the respective national interests involved.” (*EPAC Tech. LTD v Interforum S.A.*, 2026 NY Slip Op 00308 [1st Dept 2026] [citing *Societe Nationale Industrielle Aerospatiale*, 482 US at 544 n 28].) However, CCBC must first establish a conflict between New York

¹ Parties are reminded to use official citations.

and PRC law before the court engages in a comity analysis under *Aerospatiale*. (*Skillz Platform Inc.*, 753 F Supp 3d at 354.)

CCBC has not established a conflict and thus there is no need to engage in a comity analysis. What is “required to establish a true conflict [is] an allegation that compliance with the regulatory laws of both countries would be impossible.” (*Maxwell Communication Corp. PLC by Homan v Societe Generale (In re Maxwell Communication Corp. plc.)*, 93 F3d 1036, 1050 [2d Cir 1996].) CCBC has not established that the PRC’s Civil Procedure Law, Article 294, makes it impossible for CCBC to give evidence without PRC permission. (See NYSCEF 158, Clarke aff ¶¶10-11, 38.) Likewise, CCBC has not established that the PRC’s Data Security Law, Article 36, makes it impossible for CCBC to produce documents to plaintiff because plaintiff is not a justice or law enforcement institution. (*Id.* ¶¶14-15.) Since plaintiff is not requesting personal information, the Personal Information Protection law does also not make it impossible for CCBC to comply with its discovery obligations. (*Id.* ¶¶16-18.) CCBC’s reliance on PRC banking regulations fails for the same reason; plaintiff is not seeking information subject to those regulations. (*Id.* ¶¶19-24.) Indeed, CCBC’s willingness to produce, but only pursuant to the Hague Convention, undermines any assertion that compliance is impossible. (*Id.* ¶24.)

In addition, the motion is denied because the court found it has jurisdiction over CCBC and CCBC New York. (NYSCEF 118 tr 8:19-22.) As a party, it would be unfair for CCBC to take discovery applying New York law, while subjecting plaintiff to the Hague Convention process which is lengthier and, here, can be limited by the PRC, which is both the sovereign responsible for implementing the process and owner of

CCBC. (NYSCEF 26, Yau Ka Bo Ted² aff ¶ 5; *In re China Construction Bank Corp.*, US Dist Ct, SD NY, No. 1:24-cv-03591 (VM), Marrero, J., 2024, Document 25, June 13, 2024 CCBC Federal Rule 7.1 Corporate Disclosure Statement [CCBC's represented that the PRC government is its ultimate owner].)

"It is clear from the Federal cases that the Hague Convention has no application to the production of evidence in this country by a party subject to the court's jurisdiction though it may be applicable to the taking of an involuntary deposition of a party conducted in a foreign country or to the production of disclosure gathered from persons or entities in a foreign country over whom there is no in personam jurisdiction." (*Bank of Tokyo-Mitsubishi, Ltd., Kvaerner a.s.*, 175 Misc 2d 408, 411 [Sup Ct, NY County 1998] [citations omitted].)

Discovery Issues

The deadline for document production was January 30, 2026. (NYSCEF 99, October 20, 2025 PC Order; NYSCEF 114, November 19, 2025 Case Management Order.) The court is compelled to grant defendants' tardy request for an extension of the January 30, 2026 deadline because of the alleged delays in response times by all of the parties. (NYSCEF ___, January 28, 2026 email sent at 12:51 pm [CCB Asia]; NYSCEF ___, January 28, 2026 email sent at 4:43 pm [CCB NY Branch]; NYSCEF ___, January 29, 2026 email sent at 8:23 am [CCBC].)³ CCBC's request, however, should have been made in the January 9, 2026 status update to the court (NYSCEF 146, January 9, 2026 Letter); that is the purpose of such updates. Accordingly, the parties are on notice that any future failure to comply with discovery deadlines without timely notifying the court prior to such failure will have consequences and may result in

² Yau Ka Bo Ted is the Head of Legal at China Construction Bank (Asia) Corporation Limited. (NYSCEF 26, Ted aff ¶ 1.)

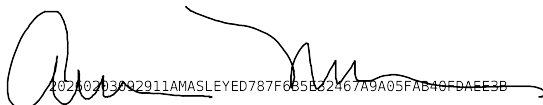
³ Parties shall file their email correspondence regarding discovery in NYSCEF.

financial sanctions.⁴ Because of the complexity of this litigation, volume of responsive documents, delays in responses demonstrating a lack of cooperation, the court urges the parties to consider engaging a discovery master. Until then, the parties shall meaningfully respond to each other’s correspondence within 3 business days of receipt; otherwise, they may be sanctioned.

Accordingly, it is

ORDERED that CCBC’s motion is denied; and it is further

ORDERED that parties shall attend an in-person discovery conference on Tuesday, February 10, 2026 at 11AM at 60 Centre Street, Room 242, New York, NY 10007. Parties shall submit pre-conference letters by NYSCEF and email by February 6, 2026 at 12PM noon.



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2/3/2026
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	
	<input type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE

⁴ The court will waive defendants’ sanction for defendants’ 9-day delay in making this extension request in violation of Part 48 Procedure § 17(D) that would be paid to the Lawyers Fund for Client Protection.