CONVENTION

on jurisdiction and the enforcement of judgments in civil and commercial matters (*)

PREAMBLE

THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY,

Desiring to implement the provisions of Article 220 of that Treaty by virtue of which they undertook to secure the simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals;

Anxious to strengthen in the Community the legal protection of persons therein established;

Considering that it is necessary for this purpose to determine the international jurisdiction of their courts, to facilitate recognition and to introduce an expeditious procedure for securing the enforcement of judgments, authentic instruments and court settlements;

Have decided to conclude this Convention and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr Pierre HARMEL,

Minister for Foreign Affairs;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Mr Willy BRANDT,

Vice-Chancellor,

Minister for Foreign Affairs;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr Michel DEBRÉ,

Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr Giuseppe MEDICI,

Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Mr Pierre GRÉGOIRE,

Minister for Foreign Affairs;

(*) Text as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland — hereafter referred to as the '1978 Accession Convention' — and by the Convention of 25 October 1982 on the Accession of the Hellenic Republic — hereafter referred to as the '1982 Accession Convention'.

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr J. M. A. H. LUNS,

Minister for Foreign Affairs;

WHO, meeting within the Council, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

TITLE I

SCOPE

Article 1

This Convention shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters (1).

The Convention shall not apply to:

1. the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession;
2. bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
3. social security;
4. arbitration

TITLE II

JURISDICTION

Section 1

General provisions

Article 2

Subject to the provisions of this Convention, persons domiciled in a Contracting State shall, whatever their nationality, be sued in the courts of that State.

Persons who are not nationals of the State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that State.

Article 3

Persons domiciled in a Contracting State may be sued in the courts of another Contracting State only by virtue of the rules set out in Sections 2 to 6 of this Title.

In particular the following provisions shall not be applicable as against them:

— in Belgium: Article 15 of the civil code (Code civil — Burgerlijk Wetboek) and Article 638 of the judicial code (Code judiciaire — Gerechtelijk Wetboek),

— in Denmark: Article 248 (2) of the law on civil procedure (Lov om rettens pleje) and Chapter 3, Article 3 of the Greenland law on civil procedure (Lov for Grønland om rettens pleje),

— in the Federal Republic of Germany: Article 23 of the code of civil procedure (Zivilprozeßordnung),

— in Greece, Article 40 of the code of civil procedure (Κώδικας Πολιτικής Δικονομίας);

— in France: Articles 14 and 15 of the civil code (Code civil),

— in Ireland: the rules which enable jurisdiction to be founded on the document instituting the proceedings having been served on the defendant during his temporary presence in Ireland,

— in Italy: Articles 2 and 4, Nos 1 and 2 of the code of civil procedure (Codice di procedura civile),

— in Luxembourg: Articles 14 and 15 of the civil code (Code civil),

— in the Netherlands: Articles 126 (3) and 127 of the code of civil procedure (Wetboek van Burgerlijke Rechtsvordering),

— in the United Kingdom: the rules which enable jurisdiction to be founded on:

  (a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom; or

(1) Second sentence added by Article 3 of the 1978 Accession Convention.

(b) the presence within the United Kingdom of property belonging to the defendant; or

(c) the seizure by the plaintiff of property situated in the United Kingdom (1).

Article 4

If the defendant is not domiciled in a Contracting State, the jurisdiction of the courts of each Contracting State shall, subject to the provisions of Article 16, be determined by the law of that State.

As against such a defendant, any person domiciled in a Contracting State may, whatever his nationality, avail himself in that State of the rules of jurisdiction there in force, and in particular those specified in the second paragraph of Article 3, in the same way as the nationals of that State.

Section 2

Special jurisdiction

Article 5

A person domiciled in a Contracting State may, in another Contracting State, be sued:

1. in matters relating to a contract, in the courts for the place of performance of the obligation in question;

2. in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties (2);

3. in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred;

4. as regards a civil claim for damages or restitution which is based on an act giving rise to criminal proceedings, in the court seised of those proceedings, to the extent that that court has jurisdiction under its own law to entertain civil proceedings;

5. as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated;

6. as settlor, trustee or beneficiary of a trust created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, in the courts of the Contracting State in which the trust is domiciled (3);

7. as regards a dispute concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, in the court under the authority of which the cargo or freight in question:

   (a) has been arrested to secure such payment, or

   (b) could have been so arrested, but bail or other security has been given;

   provided that this provision shall apply only if it is claimed that the defendant has an interest in the cargo or freight or had such an interest at the time of salvage (4).

Article 6

A person domiciled in a Contracting State may also be sued:

1. where he is one of a number of defendants, in the courts for the place where any one of them is domiciled;

(1) Second subparagraph as amended by Article 4 of the 1978 Accession Convention and by Article 3 of the 1982 Accession Convention.

(2) Point 2 as amended by Article 5 (3) of the 1978 Accession Convention.

(3) Point 6 added by Article 5 (4) of the 1978 Accession Convention.

(4) Point 7 added by Article 5 (4) of the 1978 Accession Convention.

2. as a third party in an action on a warranty or guarantee or in any other third party proceedings, in the court seised of the original proceedings, unless these were instituted solely with the object of removing him from the jurisdiction of the court which would be competent in his case;

3. on a counter-claim arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending.

Article 6a (1)

Where by virtue of this Convention a court of a Contracting State has jurisdiction in actions relating to liability arising from the use or operation of a ship, that court, or any other court substitued for this purpose by the internal law of that State, shall also have jurisdiction over claims for limitation of such liability.

Section 3

Jurisdiction in matters relating to insurance

Article 7

In matters relating to insurance, jurisdiction shall be determined by this Section, without prejudice to the provisions of Articles 4 and 5 point 5.

Article 8 (2)

An insurer domiciled in a Contracting State may be used:

1. in the courts of the State where he is domiciled, or

2. in another Contracting State, in the courts for the place where the policy-holder is domiciled, or

3. if he is a co-insurer, in the courts of a Contracting State in which proceedings are brought against the leading insurer.

An insurer who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

Article 9

In respect of liability insurance or insurance of immovable property, the insurer may in addition be sued in the courts for the place where the harmful event occurred. The same applies if movable and immovable property are covered by the same insurance policy and both are adversely affected by the same contingency.

Article 10

In respect of liability insurance, the insurer may also, if the law of the court permits it, be joined in proceedings which the injured party had brought against the insured.

The provisions of Articles 7, 8 and 9 shall apply to actions brought by the injured party directly against the insurer, where such direct actions are permitted.

If the law governing such direct actions provides that the policy-holder or the insured may be joined as a party to the action, the same court shall have jurisdiction over them.

Article 11

Without prejudice to the provisions of the third paragraph of Article 10, an insurer may bring proceedings only in the courts of the Contracting State in which the defendant is domiciled, irrespective of whether he is the policy-holder, the insured or a beneficiary.

The provisions of this Section shall not affect the right to bring a counterclaim in the court in which, in accordance with this Section, the original claim is pending.

Article 12 (3)

The provisions of this Section may be departed from only by an agreement on jurisdiction:

1. which is entered into after the dispute has arisen, or

(1) Article added by Article 6 of the 1978 Accession Convention.

(2) Text as amended by Article 7 of the 1978 Accession Convention.

(3) Text as amended by Article 8 of the 1978 Accession Convention

2. which allows the policy-holder, the insured or a beneficiary to bring proceedings in courts other than those indicated in this Section, or

3. which is concluded between a policy-holder and an insurer, both of whom are domiciled in the same Contracting State, and which has the effect of conferring jurisdiction on the courts of that State even if the harmful event were to occur abroad, provided that such an agreement is not contrary to the law of that State, or

4. which is concluded with a policy-holder who is not domiciled in a Contracting State, except in so far as the insurance is compulsory or relates to immovable property in a Contracting State, or

5. which relates to a contract of insurance in so far as it covers one or more of the risks set out in Article 12a.

Article 12a (1)

The following are the risks referred to in point 5 of Article 12:

1. Any loss of or damage to

   (a) sea-going ships, installations situated off-shore or on the high seas, or aircraft, arising from perils which relate to their use for commercial purposes,

   (b) goods in transit other than passengers' baggage where the transit consists of or includes carriage by such ships or aircraft;

2. Any liability, other than for bodily injury to passengers or loss of or damage to their baggage,

   (a) arising out of the use or operation of ships, installations or aircraft as referred to in point 1 (a) above in so far as the law of the Contracting State in which such aircraft are registered does not prohibit agreements on jurisdiction regarding insurance of such risks,

   (b) for loss or damage caused by goods in transit as decribed in point 1 (b) above;

3. Any financial loss connected with the use or operation of ships, installations or aircraft as referred to in point 1 (a) above, in particular loss of freight or charter-hire;

4. Any risk or interest connected with any of those referred to in points 1 to 3 above.

Section 4 (2)

Jurisdiction over consumer contracts

Article 13

In proceedings concerning a contract concluded by a person for a purpose which can be regarded as being outside his trade or profession, hereinafter called 'the consumer', jurisdiction shall be determined by this Section, without prejudice to the provisions of point 5 of Articles 4 and 5, if it is:

1. a contract for the sale of goods on instalment credit terms, or

2. a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or

3. any other contract for the supply of goods or a contract for the supply of services, and

   (a) in the State of the consumer's domicile the conclusion of the contract was preceded by a specific invitation addressed to him or by advertising, and

   (b) the consumer took in that State the steps necessary for the conclusion of the contract.

Where a consumer enters into a contract with a party who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States, that party shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

This Section shall not apply to contracts of transport.

(1) Article added by Article 9 of the 1978 Accession Convention.

(2) Text as amended by Article 10 of the 1978 Accession Convention.

Article 14

A consumer may bring proceedings against the other party to a contract either in the courts of the Contracting State in which that party is domiciled or in the courts of the Contracting State in which he is himself domiciled.

Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Contracting State in which the consumer is domiciled.

These provisions shall not affect the right to bring a counter-claim in the court in which, in accordance with this Section, the original claim is pending.

Article 15

The provisions of this Section may be departed from only by an agreement:

1. which is entered into after the dispute has arisen, or

2. which allows the consumer to bring proceedings in courts other than those indicated in this Section, or

3. which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Contracting State, and which confers jurisdiction on the courts of that State, provided that such an agreement is not contrary to the law of that State.

Section 5

Exclusive jurisdiction

Article 16

The following courts shall have exclusive jurisdiction, regardless of domicile:

1. in proceedings which have as their object rights *in rem* in, or tenancies of, immovable property, the courts of the Contracting State in which the property is situated;

2. in proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons, or the decisions of their organs, the courts of the Contracting State in which the company, legal person or association has its seat;

3. in proceedings which have as their object the validity of entries in public registers, the courts of the Contracting State in which the register is kept;

4. in proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered, the courts of the Contracting State in which the deposit or registration has been applied for, has taken place or is under the terms of an international convention deemed to have taken place;

5. in proceedings concerned with the enforcement of judgments, the courts of the Contracting State in which the judgment has been or is to be enforced.

Section 6

Prorogation of jurisdiction

Article 17 [1]

If the parties, one or more of whom is domiciled in a Contracting State, have agreed that a court or the courts of a Contracting State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have exclusive jurisdiction. Such an agreement conferring jurisdiction shall be either in writing or evidenced in writing or, in international trade or commerce, in a form which accords with practices in that trade or commerce of which the parties are or ought to have been aware. Where such an agreement is concluded by parties, none of whom is domiciled in a Contracting State, the courts of other Contracting States shall have no jurisdiction over their disputes unless the court or courts chosen have declined jurisdiction.

The court or courts of a Contracting State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings

[1] Text as amended by Article 11 of the 1978 Accession Convention.

brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of Articles 12 or 15, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 16.

If an agreement conferring jurisdiction was concluded for the benefit of only one of the parties, that party shall retain the right to bring proceedings in any other court which has jurisdiction by virtue of this Convention.

Article 18

Apart from jurisdiction derived from other provisions of this Convention, a court of a Contracting State before whom a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered solely to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Article 16.

Section 7

Examination as to jurisdication and admissibility

Article 19

Where a court of a Contracting State is seised of a claim which is principally concerned with a matter over which the courts of another Contracting State have exclusive jurisdiction by virtue of Article 16, it shall declare of its own motion that it has no jurisdiction.

Article 20

Where a defendant domiciled in one Contracting State is sued in a court of another Contracting State and does not enter an appearance, the court shall declare of its own motion that it has no jurisdiction unless its jurisdiction is derived from the provisions of this Convention.

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end (1).

The provisions of the foregoing paragraph shall be replaced by those of Article 15 of the Hague Convention of 15 November 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial matters, if the document instituting the proceedings or notice thereof had to be transmitted abroad in accordance with that Convention.

Section 8

Lis Pendens — related actions

Article 21

Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Contracting States, any court other than the court first seised shall of its own motion decline jurisdiction in favour of that court.

A court which would be required to decline jurisdiction may stay its proceedings if the jurisdiction of the other court is contested.

Article 22

Where related actions are brought in the courts of different Contracting States, any court other than the court first seised may, while the actions are pending at first instance, stay its proceedings.

A court other than the court first seised may also, on the application of one of the parties, decline jurisdication if the law of that court permits the consolidation of related actions and the court first seised has jurisdiction over both actions.

For the purposes of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

(1) Second subparagraph as amended by Article 12 of the 1978 Accession Convention.

Article 23

Where actions come within the exclusive jurisdiction of several courts, any court other than the court first seised shall decline jurisdiction in favour of that court.

Section 9

Provisional, including protective, measures

Article 24

Application may be made to the courts of a Contracting State for such provisional, including protective, measures as may be available under the law of that State, even if, under this Convention, the courts of another Contracting State have jurisdiction as to the substance of the matter.

TITLE III

RECOGNITION AND ENFORCEMENT

Article 25

For the purposes of this Convention, 'judgment' means any judgment given by a court or tribunal of a Contracting State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court.

Section 1

Recognition

Article 26

A judgment given in a Contracting State shall be recognized in the other Contracting States without any special procedure being required.

Any interested party who raises the recognition of a judgment as the principal issue in a dispute may, in accordance with the procedures provided for in Sections 2 and 3 of this Title, apply for a decision that the judgment be recognized.

If the outcome of proceedings in a court of a Contracting State depends on the determination of an incidental question of recognition that court shall have jurisdiction over that question.

Article 27

A judgment shall not be recognized:

1. if such recognition is contrary to public policy in the State in which recognition is sought;

2. where it was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence (1);

3. if the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State in which recognition is sought;

4. if the court of the State in which the judgment was given, in order to arrive at its judgment, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts with a rule of the private international law of the State in which the recognition is sought, unless the same result would have been reached by the application of the rules of private international law of that State;

5. if the judgment is irreconcilable with an earlier judgment given in a non-contracting State involving the same cause of action and between the same parties, provided that this latter judgment fulfils the conditions necessary for its recognition in the State addressed (2).

Article 28

Moreover, a judgment shall not be recognized if it conflicts with the provisions of Sections 3, 4 or 5 of Title II, or in a case provided for in Article 59.

In its examination of the grounds of jurisdiction referred to in the foregoing paragraph, the court or

(1) Point 2 as amended by Article 13 (1) of the 1978 Accession Convention.

(2) Point 5 added by Article 13 (2) of the 1978 Accession Convention.

authority applied to shall be bound by the findings of fact on which the court of the State in which the judgment was given based its jurisdiction.

Subject to the provisions of the first paragraph, the jurisdiction of the court of the State in which the judgment was given may not be reviewed; the test of public policy referred to in point 1 of Article 27, may not be applied to the rules relating to jurisdiction.

Article 29

Under no circumstances may a foreign judgment be reviewed as to its substance.

Article 30

A court of a Contracting State in which recognition is sought of a judgment given in another Contracting State may stay the proceedings if an ordinary appeal against the judgment has been lodged.

A court of a Contracting State in which recognition is sought of a judgment given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the State in which the judgment was given by reason of an appeal (1).

Section 2

Enforcement

Article 31

A judgment given in a Contracting State and enforceable in that State shall be enforced in another Contracting State when, on the application of any interested party, the order for its enforcement has been issued there.

However, in the United Kingdom, such a judgment shall be enforced in England and Wales, in Scotland, or in Northern Ireland when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom (2).

Article 32

The application shall be submitted:

— in Belgium, to the tribunal de première instance or rechtbank van eerste aanleg,

— in Denmark, to the underret,

— in the Federal Republic of Germany, to the presiding judge of a chamber of the Landgericht,

— in Greece, to the Μονομελές Πρωτοδικείο,

— in France, to the presiding judge of the tribunal de grande instance,

— in Ireland, to the High Court,

— in Italy, to the corte d'appello,

— in Luxembourg, to the presiding judge of the tribunal d'arrondissement,

— in the Netherlands, to the presiding judge of the arrondissementsrechtbank,

— in the United Kingdom:

1. in England and Wales, to the High Court of Justice, or in the case of maintenance judgment to the Magistrates' Court on transmission by the Secretary of State;

2. in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court on transmission by the secretary of State;

3. in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State (3).

The jurisdiction of local courts shall be determined by reference to the place of domicile of the party against whom enforcement is sought. If he is not domiciled in the State in which enforcement is sought, it shall be determined by reference to the place of enforcement.

Article 33

The procedure for making the application shall be governed by the law of the State in which enforcement is sought.

The applicant must give an address for service of process within the area of jurisdiction of the court applied to. However, if the law of the State in which

(1) Second subparagraph added by Article 14 of the 1978 Accession Convention.

(2) Second subparagraph added by Article 15 of the 1978 Accession Convention.

(3) First subparagraph as amended by Article 16 of the 1978 Accession Convention and by Article 4 of the 1982 Accession Convention.

enforcement is sought does not provide for the furnishing of such an address, the applicant shall appoint a representative *ad litem*.

The documents referred to in Articles 46 and 47 shall be attached to the application.

Article 34

The court applied to shall give its decision without delay; the party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

The application may be refused only for one of the reasons specified in Articles 27 and 28.

Under no circumstances may the foreign judgment be reviewed as to its substance.

Article 35

The appropriate officer of the court shall without delay bring the decision given on the application to the notice of the applicant in accordance with the procedure laid down by the law of the State in which enforcement is sought.

Article 36

If enforcement is authorized, the party against whom enforcement is sought may appeal against the decision within one month of service thereof.

If that party is domiciled in a Contracting State other than that in which the decision authorizing enforcement was given, the time for appealing shall be two months and shall run from the date of service, either on him in person or at his residence. No extension of time may be granted on account of distance.

Article 37(1)

An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters:

— in Belgium, with the tribunal de première instance or rechtbank van eerste aanleg,

— in Denmark, with the landsret,

— in the Federal Republic of Germany, with the Oberlandesgericht,

— in Greece, with the Εφετείο,

— in France, with the cour d'appel,

— in Ireland, with the High Court,

— in Italy, with the corte d'appello,

— in Luxembourg, with the Cour supérieure de justice sitting as a court of civil appeal,

— in the Netherlands, with the arrondissementsrechtbank,

— in the United Kingdom:

1. in England and Wales, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court;

2. in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Sheriff Court;

3. in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court.

The judgment given on the appeal may be contested only:

— in Belgium, Greece, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,

— in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,

— in the Federal Republic of Germany, by a Rechtsbeschwerde,

— in Ireland, by an appeal on a point of law to the Supreme Court,

— in the United Kingdom, by a single further appeal on a point of law.

Article 38

The court with which the appeal under the first paragraph of Article 37 is lodged may, on the application of the appellant, stay the proceedings if an ordinary appeal has been lodged against the judgment in the State in which that judgment was given or if the time for such an appeal has not yet expired; in the latter case, the court may specify the time within which such an appeal is to be lodged.

Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in

(1) Text as amended by Article 17 of the 1978 Accession Convention and by Article 5 of the 1982 Accession Convention.

the State in which it was given shall be treated as an ordinary appeal for the purposes of the first paragraph (1).

The court may also make enforcement conditional on the provision of such security as it shall determine.

Article 39

During the time specified for an appeal pursuant to Article 36 and until any such appeal has been determined, no measures of enforcement may be taken other than protective measures taken against the property of the party against whom enforcement is sought.

The decision authorizing enforcement shall carry with it the power to proceed to any such protective measures.

Article 40

If the application for enforcement is refused, the applicant may appeal:

— in Belgium, to the cour d'appel or hof van beroep,

— in Denmark, to the landsret,

— in the Federal Republic of Germany, to the Oberlandesgericht,

— in Greece, to the Εφετείο,

— in France, to the court d'appel,

— in Ireland, to the High Court,

— in Italy, to the corte d'appello,

— in Luxembourg, to the Cour supérieure de justice sitting as a court of civil appeal,

— in the Netherlands, to the gerechtshof,

— in the United Kingdom:

1. in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court;

2. in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court;

3. in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court (2).

The party against whom enforcement is sought shall be summoned to appear before the appellate court. If he fails to appear, the provisions of the second and third paragraphs of Article 20 shall apply even where he is not domiciled in any of the Contracting States.

Article 41 (3)

A judgment given on an appeal provided for in Article 40 may be contested only:

— in Belgium, Greece, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,

— in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,

— in the Federal Republic of Germany, by a Rechtsbeschwerde,

— in Ireland, by an appeal on a point of law to the Supreme Court,

— in the United Kingdom, by a single further appeal on a point of law.

Article 42

Where a foreign judgment has been given in respect of several matters and enforcement cannot be authorized for all of them, the court shall authorize enforcement for one or more of them.

An applicant may request partial enforcement of a judgment.

Article 43

A foreign judgment which orders a periodic payment by way of a penalty shall be enforceable in the State in which enforcement is sought only if the amount of the payment has been finally determined by the courts of the State in which the judgment was given.

Article 44 (4)

An applicant who, in the State in which the judgment was given, has benefited from complete or

(1) Second subparagraph added by Article 18 of the 1978 Accession Convention.

(2) First subparagraph as amended by Article 19 of the 1978 Accession Convention and by Article 6 of the 1982 Accession Convention.

(3) Text as amended by Article 20 of the 1978 Accession Convention and by Article 7 of the 1982 Accession Convention.

(4) Text as amended by Article 21 of the 1978 Accession Convention.

partial legal aid or exemption from costs or expenses, shall be entitled, in the procedures provided for in Articles 32 to 35, to benefit from the most favourable legal aid of the most extensive exemption from costs or expenses provided for by the law of the State addressed.

However, an applicant who requests the enforcement of a decision given by an administrative authority in Denmark in respect of a maintenance order may, in the State addressed, claim the benefits referred to in the first paragraph if he presents a statement from the Danish Ministry of Justice to the effect that he fulfils the economic requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.

Article 45

No security, bond or deposit, however described, shall be required of a party who in one Contracting State applies for enforcement of a judgment given in another Contracting State on the ground that he is a foreign national or that he is not domiciled or resident in the State in which enforcement is sought.

Section 3

Common provisions

Article 46

A party seeking recognition or applying for enforcement of a judgment shall produce:

1. a copy of the judgment which satisfies the conditions necessary to establish its authenticity;

2. in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document (1).

Article 47

A party applying for enforcement shall also produce:

1. documents which establish that, according to the law of the State in which it has been given, the judgment is enforceable and has been served;

2. where appropriate, a document showing that the applicant is in receipt of legal aid in the State in which the judgment was given.

Article 48

If the documents specified in point 2 of Articles 46 and 47 are not produced, the court may specify a time for their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense with their production.

If the court so requires, a translation of the documents shall be produced; the translation shall be certified by a person qualified to do so in one of the Contracting States.

Article 49

No legalization or other similar formality shall be required in respect of the documents referred to in Articles 46 or 47 or the second paragraph of Article 48, or in respect of a document appointing a representative *ad litem*.

TITLE IV

AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS

Article 50

A document which has been formally drawn up or registered as an authentic instrument and is enforceable in one Contracting State shall, in another Contracting State, have an order for its enforcement issued there, on application made in accordance with the procedures provided for in Article 31 *et seq.* The application may be refused only if enforcement of the instrument is contrary to public policy in the State in which enforcement is sought.

The instrument produced must satisfy the conditions necessary to establish its authenticity in the State of origin.

The provisions of Section 3 of Title III shall apply as appropriate.

Article 51

A settlement which has been approved by a court in the course of proceedings and is enforceable in the

(1) Point 2 as amended by Article 22 of the 1978 Accession Convention.

State in which it was concluded shall be enforceable in the State in which enforcement is sought under the same conditions as authentic instruments.

TITLE V

GENERAL PROVISIONS

Article 52

In order to determine whether a party is domiciled in the Contracting State whose courts are seised of a matter, the Court shall apply its internal law.

If a party is not domiciled in the State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another Contracting State, the court shall apply the law of that State.

The domicile of a party shall, however, be determined in accordance with his national law if, by that law, his domicile depends on that of another person or on the seat of an authority.

Article 53

For the purposes of this Convention, the seat of a company or other legal person or association of natural or legal persons shall be treated as its domicile. However, in order to determine that seat, the court shall apply its rules of private international law.

In order to determine whether a trust is domiciled in the Contracting State whose courts are seised of the matter, the court shall apply its rules of private international law (1).

TITLE VI

TRANSITIONAL PROVISIONS

Article 54 (2)

The provisions of this Convention shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after its entry into force.

However, judgments given after the date of entry into force of this Convention in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III if jurisdiction was founded upon rules which accorded with those provided for either in Title II of this Convention or in a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

(1) Second subparagraph added by Article 23 of the 1978 Accession Convention.

(2) Title V of the 1978 Accession Convention contains the following transitional provisions:

'*Article 34*

1. The 1968 Convention and the 1971 Protocol, with the amendments made by this Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

2. However, as between the six Contracting States to the 1968 Convention, judgments given after the date of entry into force of this Convention in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III of the 1968 Convention as amended.

3. Moreover, as between the six Contracting States to the 1968 Convention and the three States mentioned in Article 1 of this Convention, and as between those three States, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall also be recognized and enforced in accordance with the provisions of Title III of the 1968 Convention as amended if jurisdiction was founded upon rules which accorded with the provisions of Title II, as amended, or with provisions of a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

Article 35

If the parties to a dispute concerning a contract had agreed in writing before the entry into force of this Convention that the contract was to be governed by the law of Ireland or of a part of the United Kingdom, the courts of Ireland or of that part of the United Kingdom shall retain the right to exercise jurisdiction in the dispute.

Article 36

For a period of three years from the entry into force of the 1968 Convention for the Kingdom of Denmark and Ireland respectively, jurisdiction in maritime matters shall be determined in these States not only in accordance with the provisions of that Convention but also in accordance with the provisions of paragraphs 1 to 6 following. However, upon the entry into force of the International Convention relating to the arrest of sea-going ships, signed at Brussels on 10 May 1952, for one of these States, these provisions shall cease to have effect for that State.

(Continued on next page.)

(Footnote continued from p. 14.)

1. A person who is domiciled in a Contracting State may be sued in the courts of one of the States mentioned above in respect of a maritime claim if the ship to which the claim relates or any other ship owned by him has been arrested by judicial process within the territory of the latter State to secure the claim, or could have been so arrested there but bail or other security has been given, and either:

   (a) the claimant is domiciled in the latter State; or

   (b) the claim arose in the latter State; or

   (c) the claim concerns the voyage during which the arrest was made or could have been made; or

   (d) the claim arises out of a collision or out of damage caused by a ship to another ship or to goods or persons on board either ship, either by the execution or non-execution of a manoeuvre or by the non-observance of regulations; or

   (e) the claim is for salvage; or

   (f) the claim is in respect of a mortgage or hypothecation of the ship arrested.

2. A claimant may arrest either the particular ship to which the maritime claim relates, or any other ship which is owned by the person who was, at the time when the maritime claim arose, the owner of the particular ship. However, only the particular ship to which the maritime claim relates may be arrested in respect of the maritime claims set out in subparagraphs (o), (p) or (q) of paragraph 5 of this Article.

3. Ships shall be deemed to be in the same ownership when all the shares therein are owned by the same person or persons.

4. When in the case of a charter by demise of a ship the charterer alone is liable in respect of a maritime claim relating to that ship, the claimant may arrest that ship or any other ship owned by the charterer, but no other ship owned by the owner may be arrested in respect of such claim. The same shall apply to any case in which a person other than the owner of a ship is liable in respect of a maritime claim relating to that ship.

5. The expression "maritime claim" means a claim arising out of one or more of the following:

   (a) damage caused by any ship either in collision or otherwise;

   (b) loss of life or personal injury caused by any ship or occurring in connection with the operation of any ship;

   (c) salvage;

   (d) agreement relating to the use or hire of any ship whether by charter-party or otherwise;

   (e) agreement relating to the carriage of goods in any ship whether by charter-party or otherwise;

   (f) loss of or damage to goods including baggage carried in any ship;

   (g) general average;

   (h) bottomry;

   (i) towage;

   (j) pilotage;

   (k) goods or materials wherever supplied to a ship for her operation or maintenance;

   (l) construction, repair or equipment of any ship or dock charges and dues;

   (m) wages of masters, officers or crew;

   (n) master's disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;

   (o) dispute as to the title to or ownership of any ship;

   (p) disputes between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;

   (q) the mortgage or hypothecation of any ship.

6. In Denmark, the expression "arrest" shall be deemed as regards the maritime claims referred to in subparagraphs (o) and (p) of paragraph 5 of this Article, to include a "forbud", where that is the only procedure allowed in respect of such a claim under Articles 646 to 653 of the law on civil procedure (lov om rettens pleje).'

Title V of the 1982 Accession Convention contains the following transitional provisions:

'Article 12

1. The 1968 Convention and the 1971 Protocol, as amended by the 1978 Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

2. However, as between the State of origin and the State addressed, judgments given after the date of entry into force of this Convention in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III of the 1968 Convention, as amended by the 1978 Convention, and by this Convention if jurisdiction was

(Continued at foot of next page.)

TITLE VII

RELATIONSHIP TO OTHER CONVENTIONS

Article 55

Subject to the provisions of the second subparagraph of Article 54, and of Article 56, this Convention shall, for the States which are parties to it, supersede the following conventions concluded between two or more of them:

— the Convention between Belgium and France on jurisdiction and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Paris on 8 July 1899,

— the Convention between Belgium and the Netherlands on jurisdiction, bankruptcy, and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Brussels on 28 March 1925,

— the Convention between France and Italy on the enforcement of judgments in civil and commercial matters, signed at Rome on 3 June 1930,

— the Convention between the United Kingdom and the French Republic providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Paris on 18 January 1934 (1),

— the Convention between the United Kingdom and the Kingdom of Belgium providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Brussels on 2 May 1934 (1),

— the Convention between Germany and Italy on the recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 9 March 1936,

— the Convention between the Federal Republic of Germany and the Kingdom of Belgium on the mutual recognition and enforcement of judgments, arbitration awards and authentic instruments in civil and commercial matters, signed at Bonn on 30 June 1958,

— the Convention between the Kingdom of the Netherlands and the Italian Republic on the recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 17 April 1959,

— the Convention between the United Kingdom and the Federal Republic of Germany for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Bonn on 14 July 1960 (2),

— the Convention between the Kingdom of Greece and the Federal Republic of Germany for the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters, signed in Athens on 4 November 1961 (3),

— the Convention between the Kingdom of Belgium and the Italian Republic on the recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed at Rome on 6 April 1962,

— the Convention between the Kingdom of the Netherlands and the Federal Republic of Germany on the mutual recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed at The Hague on 30 August 1962,

— the Convention between the United Kingdom and the Republic of Italy for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 7 February 1964, with amending Protocol signed at Rome on 14 July 1970 (4),

— the Convention between the United Kingdom and the Kingdom of the Netherlands providing for the reciprocal recognition and enforcement of judgments in civil matters, signed at The Hague on 17 November 1967 (4),

and, in so far as it is in force:

— the Treaty between Belgium, the Netherlands and Luxembourg on jurisdiction, bankruptcy, and the validity and enforcement of judgments,

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(Footnote continued from page 15.)

founded upon rules which accorded with the provisions of Title II, as amended by the 1968 Convention or with provisions of a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.'

Article 1 (2) of the 1982 Accession Convention provides as follows:

'2. The accession of the Hellenic Republic extends in particular to Article 25 (2) and to Articles 35 and 36 of the 1978 Convention.'

(1) Fourth and fifth indents added by Article 24 of the 1978 Accession Convention.

(2) Ninth indent added by Article 24 of the 1978 Accession Convention.

(3) 10th indent added by Article 8 of the 1982 Accession Convention.

(4) 13th and 14th indents added by Article 24 of the 1978 Accession Convention.

arbitration awards and authentic instruments, signed at Brussels on 24 November 1961.

Article 56

The Treaty and the conventions referred to in Article 55 shall continue to have effect in relation to matters to which this Convention does not apply.

They shall continue to have effect in respect of judgments given and documents formally drawn up or registered as authentic instruments before the entry into force of this Convention.

Article 57 (1)

This Convention shall not affect any conventions to which the Contracting States are or will be parties and which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments (2).

This Convention shall not affect the application of provisions which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments and which are or will be contained in acts of the institutions of the European Communities or in national laws harmonized in implementation of such acts.

Article 58

This Convention shall not affect the rights granted to Swiss nationals by the Convention concluded on 15 June 1869 between France and the Swiss Confederation on Jurisdiction and the enforcement of judgments in civil matters.

Article 59

This Convention shall not prevent a Contracting State from assuming, in a convention on the recognition and enforcement of judgments, an obligation towards a third State not to recognize judgments given in other Contracting States against defendants domiciled or habitually resident in the third State where, in cases provided for in Article 4, the judgment could only be founded on a ground of jurisdiction specified in the second paragraph of Article 3.

However, a Contracting State may not assume an obligation towards a third State not to recognize a judgment given in another Contracting State by a court basing its jurisdiction on the presence within that State of property belonging to the defendant, or the seizure by the plaintiff of property situated there:

1. if the action is brought to assert or declare proprietary or possessory rights in that property, seeks to obtain authority to dispose of it, or arises from another issue relating to such property, or

2. if the property constitutes the security for a debt which is the subject-matter of the action (3).

(1) Text as amended by Article 25 (1) of the 1978 Accession Convention.

(2) Article 25 (2) of the 1978 Accession Convention provides as follows:

'2. With a view to its uniform interpretation, paragraph 1 of Article 57 shall be applied in the following manner:

(a) the 1968 Convention as amended shall not prevent a court of a Contracting State which is a party to a convention on a particular matter from assuming jurisdiction in accordance with that Convention, even where the defendant is domiciled in another Contracting State which is not a party to that Convention. The court shall, in any event, apply Article 20 of the 1968 Convention as amended;

(b) a judgment given in a Contracting State in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognized and enforced in the other Contracting States in accordance with the 1968 Convention as amended.

Where a convention on a particular matter to which both the State of origin and the State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of the 1968 Convention as amended which concern the procedures for recognition and enforcement of judgments may be applied.'

Article 1 (2) of the 1982 Accession Convention provides as follows:

'2. The accession of the Hellenic Republic extends in particular to Article 25 (2) and to Articles 35 and 36 of the 1978 Convention.'

(3) Second subparagraph added by Article 26 of the 1978 Accession Convention.

TITLE VIII

FINAL PROVISIONS

Article 60 (1)

This Convention shall apply to the European territories of the Contracting States, including Greenland, to the French overseas departments and territories, and to Mayotte.

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Convention or at any later time, by notifying the Secretary-General of the Council of the European Communities, that this Convention shall be applicable to the Netherlands Antilles. In the absence of such declaration, proceedings taking place in the European territory of the Kingdom as a result of an appeal in cassation from the judgment of a court in the Netherlands Antilles shall be deemed to be proceedings taking place in the latter court.

Notwithstanding the first paragraph, this Convention shall not apply to:

1. the Faroe Islands, unless the Kingdom of Denmark makes a declaration to the contrary;

2. any European territory situated outside the United Kingdom for the international relations of which the United Kingdom is responsible, unless the United Kingdom makes a declaration to the contrary in respect of any such territory.

Such declarations may be made at any time by notifying the Secretary-General of the Council of the European Communities.

Proceedings brought in the United Kingdom on appeal from courts in one of the territories referred to in subparagraph 2 of the third paragraph shall be deemed to be proceedings taking place in those courts.

Proceedings which in the Kingdom of Denmark are dealt with under the law on civil procedure for the Faroe Islands (lov for Faeroerne om rettens pleje) shall be deemed to be proceedings taking place in the courts of the Faroe Islands.

(1) Text as amended by Article 27 of the 1978 Accession Convention.

Article 61 (2)

This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 62 (3)

This Convention shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last signatory State to take this step.

Article 63

The Contracting States recognize that any State which becomes a member of the European Economic Community shall be required to accept this Convention as a basis for the negotiations between the Contracting States and that State necessary to

(2) Ratification of the 1978 Accession Convention is governed by Article 38 of that Convention, which reads as follows:
'This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.'
Ratification of the 1982 Accession Convention is governed by Article 14 of that Convention, which reads as follows:
'This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.'

(3) The entry into force of the 1978 Accession Convention is governed by Article 39 of that Convention, which reads as follows:

'Article 39

This Convention shall enter into force, as between the States which shall have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the original Member States of the Community and one new Member State.

It shall enter into force for each new Member State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification.'

The entry into force of the 1982 Accession Convention is governed by Article 15 of that Convention, which reads as follows:

'Article 15

This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the Hellenic Republic and those States which have put into force the 1978 Convention in accordance with Article 39 of that Convention.

It shall enter into force for each Member State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification.'

ensure the implementation of the last paragraph of Article 220 of the Treaty establishing the European Economic Community.

The necessary adjustments may be the subject of a special convention between the Contracting States of the one part and the new Member States of the other part.

Article 64 (1)

The Secretary-General of the Council of the European Communities shall notify the signatory States of:

(a) the deposit of each instrument of ratification;

(b) the date of entry into force of this Convention;

(c) any declaration received pursuant to Article 60 (2);

(d) any declaration received pursuant to Article IV of the Protocol;

(e) any communication made pursuant to Article VI of the Protocol.

Article 65

The Protocol annexed to this Convention by common accord of the Contracting States shall form an integral part thereof.

Article 66

This Convention is concluded for an unlimited period.

Article 67

Any Contracting State may request the revision of this Convention. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

Article 68 (3)

This Convention, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State (4).

(1) Notification concerning the 1978 Accession Convention is governed by Article 40 of that Convention, which reads as follows:

'*Article 40*

The Secretary-General of the Council of the European Communities shall notify the signatory States of:

(a) the deposit of each instrument of ratification,

(b) the dates of entry into force of this Convention for the Contracting States.'

Notification concerning the 1982 Accession Convention is governed by Article 16 of that Convention, which reads as follows:

'*Article 16*

The Secretary-General of the Council of the European Communities shall notify the signatory States of:

(a) the deposit of each instrument of ratification,

(b) the dates of entry into force of this Convention for the Contracting States.'

(2) Letter (c) as amended by Article 28 of the 1978 Accession Convention.

(3) An indication of the authentic texts of the 1978 Accession Convention is to be found in Article 41 of that Convention, which reads as follows:

'*Article 41*

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Irish and Italian languages, all seven texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.'

An indication of the authentic texts of the 1982 Accession Convention is to be found in Article 17 of that convention, which reads as follows:

'*Article 17*

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish and Italian languages, all eight texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.'

(4) Legal backing for the drawing up of the authentic texts of the 1968 Convention in the official languages of the acceding Member States is to be found:

— with regard to the 1978 Accession Convention, in Article 37 of that Convention, which reads as follows:

'*Article 37*

The Secretary-General of the Council of the European Communities shall transmit a certified copy of the 1968 Convention and of the 1971 Protocol in the Dutch, French, German and Italian languages to the Governments of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland.

The texts of the 1968 Convention and the 1971 Protocol, drawn up in the Danish, English and Irish languages, shall be annexed to this Convention (1). The texts drawn up in the Danish,

(Continued at foot of next page.)

In witness whereof, the undersigned Plenipotentiaries have signed this Convention.

Done at Brussels this twenty-seventh day of September in the year one thousand nine hundred and sixty-eight.

For His Majesty the King of the Belgians,

Pierre HARMEL

For the President of the Federal Republic of Germany,

Willy BRANDT

For the President of the French Republic,

Michel DEBRÉ

For the President of the Italian Republic,

Giuseppe MEDICI

For His Royal Highness the Grand Duke of Luxembourg,

Pierre GRÉGOIRE

For Her Majesty the Queen of the Netherlands,

J. M. A. H. LUNS

English and Irish languages shall be authentic under the same conditions as the original texts of the 1968 Convention and the 1971 Protocol.'

— with regard to the 1982 Accession Convention, in Article 13 of that Convention, which reads as follows:

'*Article 13*

The Secretary-General of the Council of the European Communities shall transmit a certified copy of the 1968 Convention, of the 1971 Protocol and of the 1978 Convention in the Danish, Dutch, English, French, German, Irish and Italian languages to the Government of the Hellenic Republic.

The texts of the 1968 Convention, of the 1971 Protocol and of the 1978 Convention, drawn up in the Greek language, shall be annexed to this Convention, The texts drawn up in the Greek language shall be authentic under the same conditions as the other texts of the 1968 Convention, the 1971 Protocol and the 1978 Convention.'

PROTOCOL (*)

The High Contracting Parties have agreed upon the following provisions, which shall be annexed to the Convention:

Article I

Any person domiciled in Luxembourg who is sued in a court of another Contracting State pursuant to Article 5 (1) may refuse to submit to the jurisdiction of that court. If the defendant does not enter an appearance the court shall declare of its own motion that it has no jurisdiction.

An agreement conferring jurisdiction, within the meaning of Article 17, shall be valid with respect to a person domiciled in Luxembourg only if that person has expressly and specifically so agreed.

Article II

Without prejudice to any more favourable provisions of national laws, persons domiciled in a Contracting State who are being prosecuted in the criminal courts of another Contracting State of which they are not nationals for an offence which was not intentionally committed may be defended by persons qualified to do so, even if they do not appear in person.

However, the court seised of the matter may order appearance in person; in the case of failure to appear, a judgment given in the civil action without the person concerned having had the opportunity to arrange for his defence need not be recognized or enforced in the other Contracting States.

Article III

In proceedings for the issue of an order for enforcement, no charge, duty or fee calculated by reference to the value of the matter in issue may be levied in the State in which enforcement is sought.

Article IV

Judicial and extrajudicial documents drawn up in one Contracting State which have to be served on persons in another Contracting State shall be transmitted in accordance with the procedures laid down in the conventions and agreements concluded between the Contracting States.

Unless the State in which service is to take place objects by declaration to the Secretary-General of the Council of the European Communities, such documents may also be sent by the appropriate public officers of the State in which the document has been drawn up directly to the appropriate public officers of the State in which the addressee is to be found. In this case the officer of the State of origin shall send a copy of the document to the officer of the State applied to who is competent to forward it to the addressee. The document shall be forwarded in the manner specified by the law of the State applied to. The forwarding shall be recorded by a certificate sent directly to the officer of the State of origin.

Article V

The jurisdiction specified in Articles 6 (2) and 10 in actions on a warranty or guarantee or in any other third party proceedings may not be resorted to in the Federal Republic of Germany. In that State, any person domiciled in another Contracting State may be sued in the courts in pursuance of Articles 68, 72, 73 and 74 of the code of civil procedure *(Zivilprozeßordnung)* concerning third-party notices.

Judgments given in the other Contracting States by virtue of point 2 of Article 6 or Article 10 shall be recognized and enforced in the Federal Republic of Germany in accordance with Title III. Any effects which judgments given in that State may have on third parties by application of Articles 68, 72, 73 and 74 of the code of civil procedure *(Zivilprozeßordnung)* shall also be recognized in the other Contracting States.

Article Va (1)

In matters relating to maintenance, the expression 'court' includes the Danish administrative authorities.

Article Vb (2)

In proceedings involving a dispute between the master and a member of the crew of a sea-going ship

(*) Text as amended by the 1978 Accession Convention and the 1982 Accession Convention.

(1) Article added by Article 29 of the 1978 Accession Convention.

(2) Article added by Article 29 of the 1978 Accession Convention and amended by Article 9 of the 1982 Accession Convention.

registered in Denmark, in Greece or in Ireland, concerning remuneration or other conditions of service, a court in a Contracting State shall establish whether the diplomatic or consular officer responsible for the ship has been notified of the dispute. It shall stay the proceedings so long as he has not been notified. It shall of its own motion decline, jurisdiction if the officer, having been duly notified, has exercised the powers accorded to him in the matter by a consular convention, or in the absence of such a convention has, within the time allowed, raised any objection to the exercise of such jurisdiction.

Article Vc (1)

Articles 52 and 53 of this Convention shall, when applied by Article 69 (5) of the Convention for the European patent for the common market, signed at Luxembourg on 15 December 1975, to the provisions relating to 'residence' in the English text of that Convention, operate as if 'residence' in that text were the same as 'domicile' in Articles 52 and 53.

Article Vd (1)

Without prejudice to the jurisdiction of the European Patent Office under the Convention on the grant of European patents, signed at Munich on 5 October 1973, the courts of each Contracting State shall have exclusive jurisdiction, regardless of domicile, in proceedings concerned with the registration or validity of any European patent granted for that State which is not a Community patent by virtue of the provisions of Article 86 of the Convention for the European patent for the common market, signed at Luxembourg on 15 December 1975.

Article VI

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the text of any provisions of their laws which amend either those articles of their laws mentioned in the Convention or the lists of courts specified in Section 2 of Title III of the Convention.

(1) Article added by Article 29 of the 1978 Accession Convention.

In witness whereof, the undersigned Plenipotentiaries have signed this protocol.

Done at Brussels this twenty-seventh day of September in the year one thousand nine hundred and sixty-eight.

For His Majesty the King of the Belgians,

Pierre HARMEL

For the President of the Federal Republic of Germany,

Willy BRANDT

For the President of the French Republic,

Michel DEBRÉ

For the President of the Italian Republic,

Giuseppe MEDICI

For His Royal Highness the Grand Duke of Luxembourg,

Pierre GRÉGOIRE

For Her Majesty the Queen of the Netherlands,

J. M. A. H. LUNS

JOINT DECLARATION

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands;

On signing the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters;

Desiring to ensure that the Convention is applied as effectively as possible;

Anxious to prevent differences of interpretation of the Convention from impairing its unifying effect;

Recognizing that claims and disclaimers of jurisdiction may arise in the application of the Convention;

Declare themselves ready:

1. to study these questions and in particular to examine the possibility of conferring jurisdiction in certain matters on the Court of Justice of the European Communities and, if necessary, to negotiate an agreement to this effect;

2. to arrange meetings at regular intervals between their representatives.

In witness whereof, the undersigned Plenipotentiaries have signed this Joint Declaration.

Done at Brussels this twenty-seventh day of September in the year one thousand nine hundred and sixty-eight.

Pierre HARMEL	Willy BRANDT	Michel DEBRÉ
Giuseppe MEDICI	Pierre GRÉGOIRE	J. M. A. H. LUNS

PROTOCOL

on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (*)

THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Declaration annexed to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Brussels on 27 September 1968,

Have decided to conclude a Protocol conferring jurisdiction on the Court of Justice of the European Communities to interpret that Convention, and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr Alfons VRANCKX,

Minister of Justice;

(*) Text as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland — hereafter referred to as the '1978 Accession Convention' — and by the Convention of 25 October 1982 on the accession of the Hellenic Republic — hereafter referred to as the '1982 Accession Convention'.