

**Part III**  
**TREATY PROVISIONS**

**Troisième partie**  
**DISPOSITIONS CONVENTIONNELLES DE**  
**TRAITÉS**



## **A. BILATERAL TREATIES**

### **I. Treaties of friendship, commerce and navigation between non-socialist countries**

- (a) UNITED STATES OF AMERICA AND DENMARK. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION (WITH PROTOCOL AND MINUTES OF INTERPRETATION). SIGNED AT COPENHAGEN, ON 1 OCTOBER 1951<sup>1</sup>

#### *Article XVIII*

...

3. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (b) UNITED STATES OF AMERICA AND FEDERAL REPUBLIC OF GERMANY. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION (WITH PROTOCOL AND EXCHANGE OF NOTES). SIGNED AT WASHINGTON, ON 29 OCTOBER 1954<sup>2</sup>

#### *Article XVIII*

...

2. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (c) UNITED STATES OF AMERICA AND GREECE. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT ATHENS ON 3 AUGUST 1951<sup>3</sup>

#### *Article XIV*

...

5. No enterprise of either Party which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business ac-

---

<sup>1</sup> United Nations, *Treaty Series*, vol. 421, p. 105.

<sup>2</sup> United Nations, *Treaty Series*, vol. 273, p. 3.

<sup>3</sup> United Nations, *Treaty Series*, vol. 224, p. 279.

tivities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (d) UNITED STATES OF AMERICA AND REPUBLIC OF KOREA. FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT SEOUL, ON 28 NOVEMBER 1956<sup>4</sup>

*Article XVIII*

...

2. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (e) UNITED STATES OF AMERICA AND IRAN. TREATY OF AMITY, ECONOMIC RELATIONS, AND CONSULAR RIGHTS. SIGNED AT TEHRAN, ON 15 AUGUST 1955<sup>5</sup>

*Article XI*

...

4. No enterprise of either High Contracting Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other High Contracting Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (f) UNITED STATES OF AMERICA AND IRELAND. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT DUBLIN, ON 21 JANUARY 1950<sup>6</sup>

*Article XV*

...

3. No enterprise of either Party which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for

---

<sup>4</sup> *United States Treaty Series and other International Agreements*, vol. 8, p. 2217.

<sup>5</sup> United Nations, *Treaty Series*, vol. 284, p. 93.

<sup>6</sup> United Nations, *Treaty Series*, vol. 206, p. 270.

its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (g) UNITED STATES OF AMERICA AND ISRAEL. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT WASHINGTON, ON 23 AUGUST 1951<sup>7</sup>

*Article XVIII*

...

3. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned or controlled enterprises are subject therein.

- (h) UNITED STATES OF AMERICA AND ITALIAN REPUBLIC. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT ROME, ON 2 FEBRUARY 1948<sup>8</sup>

*Article XXIV*

...

6. No enterprise of either High Contracting Party which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other High Contracting Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, from suit, from execution of judgment, or from any other liability to which a privately owned and controlled enterprise is subject therein.

- (i) UNITED STATES OF AMERICA AND JAPAN. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT TOKYO, ON 2 APRIL 1953<sup>9</sup>

*Article XVIII*

...

2. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

---

<sup>7</sup> United Nations, *Treaty Series*, vol. 219, p. 237.

<sup>8</sup> United Nations, *Treaty Series*, vol. 79, p. 171.

<sup>9</sup> United Nations, *Treaty Series*, vol. 206, p. 143.

- (j) UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION. SIGNED AT THE HAGUE, ON 27 MARCH 1956<sup>10</sup>

*Article XVIII*

...

2. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, to the extent that it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

- (k) UNITED STATES OF AMERICA AND NICARAGUA. TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION (WITH PROTOCOL). SIGNED AT MANAGUA, ON 21 JANUARY 1956<sup>11</sup>

*Article XVIII*

...

3. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, industrial, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

## 2. Treaties on trade and navigation between Socialist Countries

- (a) UNION OF SOVIET SOCIALIST REPUBLICS AND ALBANIA. TREATY OF TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 15 FEBRUARY 1958<sup>12</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN ALBANIA AND OF THE TRADE DELEGATION OF ALBANIA IN THE UNION OF SOVIET SOCIALIST REPUBLICS

*Article 4*

...

The Trade Delegation shall enjoy all the immunities to which a sovereign State is entitled and which relate also to foreign trade, with the following exceptions only, to which the Parties agree:

<sup>10</sup> United Nations, *Treaty Series*, vol. 285, p. 231.

<sup>11</sup> United Nations, *Treaty Series*, vol. 367, p. 3.

<sup>12</sup> United Nations, *Treaty Series*, vol. 313, p. 261.

(a) Disputes regarding foreign commercial contracts concluded or guaranteed under article 3 by the Trade Delegation in the territory of the receiving State shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to examination by the courts of the said State. No interim court orders for the provision of security may be made;

(b) Final judicial decisions against the Trade Delegation in the afore-mentioned disputes which have become legally valid may be enforced by execution, but such execution may be levied only on the goods and claims outstanding to the credit of the Trade Delegation.

(b) UNION OF SOVIET SOCIALIST REPUBLICS AND BULGARIA. TREATY OF COMMERCE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 1 APRIL 1948<sup>13</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE PEOPLE'S REPUBLIC OF BULGARIA

...

*Article 4*

The Trade Delegation shall enjoy all the immunities to which the Union of Soviet Socialist Republics is entitled and which relate also to foreign trade, with the following exceptions only, to which the Union of Soviet Socialist Republics agrees:

(a) Disputes regarding commercial contracts concluded or guaranteed in the territory of the People's Republic of Bulgaria by the Trade Delegation under article 3 of this annex shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the courts of the People's Republic of Bulgaria. No interim orders may, however, be made against the Trade Delegation;

(b) Final judicial decisions against the Trade Delegation in the afore-mentioned disputes which have become legally valid may be enforced by execution, but such execution may only be levied on the goods and claims outstanding to the credit of the Trade Delegation.

(c) UNION OF SOVIET SOCIALIST REPUBLICS AND PEOPLE'S REPUBLIC OF CHINA. TREATY OF TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT PEKING, ON 23 APRIL 1958<sup>14</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE PEOPLE'S REPUBLIC OF CHINA AND OF THE TRADE DELEGATION OF THE PEOPLE'S REPUBLIC OF CHINA IN THE UNION OF SOVIET SOCIALIST REPUBLICS

...

*Article 4*

The Trade Delegation shall enjoy all the immunities to which a sovereign State is entitled and which relate also to foreign trade, with the following exceptions only, to which the Parties agree:

(a) Disputes regarding foreign commercial contracts concluded or guaranteed under article 3 by the Trade Delegation in the territory of the receiving State shall, in the absence of a

<sup>13</sup> United Nations, *Treaty Series*, vol. 217, p. 97.

<sup>14</sup> United Nations, *Treaty Series*, vol. 313, p. 135.

reservation regarding arbitration or any other jurisdiction, be subject to the competence of the courts of the said State. No interim court orders for the provision of the security may be made;

(b) Final judicial decisions against the Trade Delegation in the aforementioned disputes which have become legally valid may be enforced by execution, but such execution may be levied only on the goods and claims outstanding to the credit of the Trade Delegation.

- (d) UNION OF SOVIET SOCIALIST REPUBLICS AND CZECHOSLOVAKIA. TREATY OF COMMERCE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 11 DECEMBER 1947<sup>15</sup>

#### ANNEX

#### THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE CZECHOSLOVAK REPUBLIC

. . .

#### Article 4

The Trade Delegation shall enjoy the privileges and immunities arising out of article 2 of this annex, with the following exceptions:

(a) Disputes regarding commercial contracts concluded or guaranteed in the territory of the Czechoslovak Republic by the Trade Delegation under the first paragraph of article 3 of this annex shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the Czechoslovak courts and shall be settled in accordance with Czechoslovak law, save as otherwise provided by the terms of individual contracts or by Czechoslovak legislation. No interim orders may, however, be made against the Trade Delegation.

(b) Final judicial decisions against the Trade Delegation in the afore-mentioned disputes which have become legally valid may be enforced by execution but such execution may only be levied on the goods and credit balances of the Trade Delegation.

- (e) UNION OF SOVIET SOCIALIST REPUBLICS AND CZECHOSLOVAKIA. AGREEMENT CONCERNING THE TRADE DELEGATION OF THE CZECHOSLOVAK SOCIALIST REPUBLIC IN THE UNION OF SOVIET SOCIALIST REPUBLICS. SIGNED AT MOSCOW, ON 30 MAY 1973<sup>16</sup>

#### Article IV

. . .

The Government of the Czechoslovak Socialist Republic shall be responsible only for such commercial transactions as may be concluded or guaranteed in the Union of Soviet Socialist Republics on behalf of the Trade Delegation signed by the persons authorized for that purpose.

The Trade Delegation shall enjoy all the immunities deriving from article 3 of this Agreement with the following exceptions:

(a) Any dispute concerning commercial transactions concluded or guaranteed in the territory of the Union of Soviet Socialist Republics by the Trade Delegation in accordance with the previous article shall, in the absence of a reservation regarding

<sup>15</sup> United Nations, *Treaty Series*, vol. 217, p. 35.

<sup>16</sup> See Certified Text No. 12907 (Office of Legal Affairs, Treaty Section).



any other jurisdiction or arbitration, be subject to the jurisdiction of the courts of the Union of Soviet Socialist Republics. No interim orders may, however, be made against the Trade Delegation;

(b) Execution may be levied in respect to judicial decisions against the Trade Delegation which have become *res judicata* in disputes of the kind mentioned above, but only in respect of the goods and debt claims of the Trade Delegation.

(f) UNION OF SOVIET SOCIALIST REPUBLICS AND GERMAN DEMOCRATIC REPUBLIC. TREATY OF TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT BERLIN, ON 27 SEPTEMBER 1957<sup>17</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE GERMAN DEMOCRATIC REPUBLIC AND OF THE TRADE DELEGATION OF THE GERMAN DEMOCRATIC REPUBLIC IN THE UNION OF SOVIET SOCIALIST REPUBLICS

...

Article 4

The Trade Delegation shall enjoy all the immunities to which a sovereign State is entitled and which relate also to foreign trade, with the following exceptions only, to which the Parties agree:

(a) Disputes regarding foreign commercial contracts concluded or guaranteed under article 3 by the Trade Delegation in the territory of the receiving State shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the courts of the said State. No interim court orders for the provision of security may be made;

(b) Final judicial decisions, which have become legally valid, against the Trade Delegation in the afore-mentioned disputes may be enforced by execution, but only on the Trade Delegation's goods and on claims outstanding to its credit.

(g) UNION OF SOVIET SOCIALIST REPUBLICS AND HUNGARY. TREATY OF COMMERCE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 15 JULY 1947<sup>18</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE HUNGARIAN REPUBLIC

...

Article 5

The Trade Delegation shall enjoy the privileges and immunities arising out of article 2 of this annex, with the following exceptions:

Disputes regarding commercial contracts concluded or guaranteed in the territory of the Hungarian Republic by the Trade Delegation under the first paragraph of article 3 of this annex shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the Hungarian courts and shall be settled in accordance with Hungarian

<sup>17</sup> United Nations, *Treaty Series*, vol. 292, p. 75.

<sup>18</sup> United Nations, *Treaty Series*, vol. 216, p. 247.

law, save as otherwise provided by the terms of individual contracts or by Hungarian legislation. No interim orders may, however, be made against the Trade Delegation. Final judicial decisions against the Trade Delegation in the afore-mentioned disputes which have become legally valid may be enforced by execution, but such execution may only be levied on the goods and claims outstanding to the credit of the Trade Delegation.

- (h) UNION OF SOVIET SOCIALIST REPUBLICS AND DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA. TREATY OF TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 22 JUNE 1960<sup>19</sup>

#### ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA AND OF THE TRADE DELEGATION OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA IN THE UNION OF SOVIET SOCIALIST REPUBLICS

#### Article 4

The Trade Delegation shall enjoy all the immunities to which a sovereign State is entitled and which relate also to foreign trade, with the following exceptions only, to which the Parties agree:

(a) Disputes relating to foreign commercial contracts concluded or guaranteed under articles by the Trade Delegation in the territory of the receiving State shall, in the absence of a reservation providing for arbitration or for some other jurisdiction, be subject to the jurisdiction of the courts of the said State. No interim court orders for the provision of security may be made;

(b) Final judicial decisions against the Trade Delegation in such disputes shall be enforceable when they have acquired legal effect, but execution may be levied only on goods and claims standing to the credit of the Trade Delegation.

- (i) UNION OF SOVIET SOCIALIST REPUBLICS AND MONGOLIA. TRADE TREATY (WITH ANNEX). SIGNED AT MOSCOW, ON 17 DECEMBER 1957<sup>20</sup>

#### ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE MONGOLIAN PEOPLE'S REPUBLIC AND OF THE TRADE DELEGATION OF THE MONGOLIAN PEOPLE'S REPUBLIC IN THE UNION OF SOVIET SOCIALIST REPUBLICS

#### Article 4

The Trade Delegation shall enjoy all the immunities to which a sovereign State is entitled and which relate also to foreign trade, with the following exceptions only, to which the Parties agree:

(a) Disputes relating to foreign commercial contracts concluded or guaranteed under article 3 by the Trade Delegation in the territory of the receiving State shall be subject, in the absence of a reservation providing for arbitration or some other jurisdiction, to the jurisdiction of the courts of the said State. No interim court orders for the provision of security may be made;

<sup>19</sup> United Nations, *Treaty Series*, vol. 399, p. 3.

<sup>20</sup> United Nations, *Treaty Series*, vol. 687, p. 237.

(b) Final judicial decisions against the Trade Delegation in such disputes may, when they have acquired legal effect, be enforced by execution, but such execution may be levied only on goods and claims standing to the credit of the Trade Delegation.

(j) UNION OF SOVIET SOCIALIST REPUBLICS AND ROMANIA. TREATY ON TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 20 FEBRUARY 1947<sup>21</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN ROMANIA

5. The Trade Delegation shall enjoy the privileges and immunities arising out of article 2 of this annex, with the following exceptions:

Disputes regarding commercial contracts concluded or guaranteed in the territory of Romania by the Trade Delegation under the first paragraph of article 3 of this annex shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the Romanian courts and shall be settled in accordance with Romanian law, save as otherwise provided by the terms of individual contracts or by Romanian legislation. No interim orders may, however, be made against the Trade Delegation. Final judicial decisions against the Trade Delegation in the aforementioned disputes which have become legally valid may be enforced by execution, but such execution may only be levied on the goods and claims outstanding to the credit of the Trade Delegation.

6. The Trade Delegation shall not be subject to the regulations governing commercial registration. It shall publish in the Government publication of Romania the names of the persons authorized to take legal action on its behalf and information concerning the extent to which each such person is empowered to sign commercial contracts on its behalf.

(k) UNION OF SOVIET SOCIALIST REPUBLICS AND DEMOCRATIC REPUBLIC OF VIET-NAM. TREATY OF TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT HANOI, ON 12 MARCH 1958<sup>22</sup>

ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE DEMOCRATIC REPUBLIC OF VIET-NAM AND OF THE TRADE DELEGATION OF THE DEMOCRATIC REPUBLIC OF VIET-NAM IN THE UNION OF SOVIET SOCIALIST REPUBLICS

Article 4

The Trade Delegation shall enjoy all the immunities to which a sovereign State is entitled and which relate also to foreign trade, with the following exceptions only, to which the Parties agree:

(a) Disputes relating to foreign commercial contracts concluded or guaranteed under article 3 by the Trade Delegation in the territory of the receiving State shall be subject, in the absence of a reservation providing for arbitration or some other jurisdiction, to the jurisdiction of the courts of the said State. No interim court orders for the provisions of security may be made;

<sup>21</sup> United Nations, *Treaty Series*, vol. 226, p. 79.

<sup>22</sup> United Nations, *Treaty Series*, vol. 356, p. 149.

(b) Final judicial decisions against the Trade Delegation in such disputes may, when they have acquired legal effect, be enforced by execution, but such execution may be levied only on goods and claims standing to the credit of the Trade Delegation.

### 3. Treaties between Socialist Countries and developed countries

- (a) UNION OF SOVIET SOCIALIST REPUBLICS AND AUSTRIA. TREATY OF TRADE AND NAVIGATION (WITH ANNEX). SIGNED AT VIENNA, ON 17 OCTOBER 1955<sup>23</sup>

#### ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE REPUBLIC OF AUSTRIA

...

#### Article 4

The immunities and privileges accorded to the Trade Delegation shall extend to its commercial activities, with the following exceptions:

(a) Disputes arising out of commercial contracts concluded or guaranteed in the territory of Austria by the Trade Delegation shall, in the absence of an arbitration agreement, be subject to the jurisdiction of the Austrian courts and shall be settled in accordance with Austrian law, save as otherwise provided by the terms of individual contracts. No interim orders may, however, be made against the Trade Delegation;

(b) Final judicial decisions against the Trade Delegations in the disputes referred to in paragraph (a) may be enforced by execution, but such execution may only be levied on the Delegation's goods and the claims outstanding to its credit.

- (b) UNION OF SOVIET SOCIALIST REPUBLICS AND DENMARK. TREATY OF COMMERCE AND NAVIGATION (WITH ANNEX). SIGNED AT MOSCOW, ON 17 AUGUST 1946<sup>24</sup>

#### ANNEX

THE LEGAL POSITION OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN DENMARK

...

#### Article 6

The Trade Delegation shall enjoy the privileges and immunities arising out of article 2 of the present annex, with the following exceptions:

Disputes regarding commercial transactions concluded or guaranteed on the territory of Denmark by the Trade Delegation under the first paragraph of article 4 of the present annex shall be subject, in the absence of a reservation regarding arbitration or any other jurisdiction, to the competence of Danish courts and shall be settled in accordance with Danish law, unless otherwise provided for by the terms of individual contracts or by Danish legislation. No action for enforcement may, however, be taken against the Trade Delegation.

<sup>23</sup> United Nations, *Treaty Series*, vol. 240, p. 289.

<sup>24</sup> United Nations, *Treaty Series*, vol. 8, p. 201.

In enforcement of all final court decisions which have become legally valid, in respect of transactions in which the Trade Delegation is concerned, distraint may be levied upon all Government property belonging to the Union of Soviet Socialist Republics in Denmark and, in particular, upon property, rights and interests arising out of transactions effected by the Trade Delegation or with its guarantee, with the exception of property belonging to the organizations mentioned in the second paragraph of article 4 of the present annex.

Property or premises devoted exclusively to the discharge in Denmark of the political and diplomatic functions of the Government of the Union of Soviet Socialist Republics, under international law, and also premises occupied by the Trade Delegation and the movable property contained therein shall not be subject to measures of distraint.

(c) UNION OF SOVIET SOCIALIST REPUBLICS AND FINLAND. TREATY OF COMMERCE (WITH ANNEX). SIGNED AT MOSCOW, ON 1 DECEMBER 1947<sup>25</sup>  
ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE REPUBLIC OF FINLAND

...

*Article 4*

The Trade Delegation shall enjoy all the immunities to which the Union of Soviet Socialist Republics is entitled and which relate also to foreign trade, with the following exceptions only, to which the Union of Soviet Socialist Republics agrees:

(a) Disputes regarding commercial contracts concluded or guaranteed in the territory of Finland by the Trade Delegation under article 3 of this annex shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the Finnish courts. No interim orders may, however, be made against the Trade Delegation;

(b) Final judicial decisions against the Trade Delegation in the afore-mentioned disputes which have become legally valid may be enforced by execution, but such execution may only be levied on the goods and claims outstanding to the credit of the Trade Delegation.

(d) UNION OF SOVIET SOCIALIST REPUBLICS AND FRANCE. AGREEMENT (WITH PROTOCOL) CONCERNING RECIPROCAL TRADE RELATIONS AND THE STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN FRANCE. SIGNED AT PARIS, ON 3 SEPTEMBER 1951<sup>26</sup>

...

*Article 10*

The Trade Delegation of the Union of Soviet Socialist Republics in France shall enjoy the privileges and immunities arising out of article 6 above, with the following exceptions:

Disputes regarding commercial transactions concluded or guaranteed in the territory of France by the Trade Delegation of the Union of Soviet Socialist Republics under the first paragraph of article 8 of this Agreement shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence

<sup>25</sup> United Nations, *Treaty Series*, vol. 217, p. 3.

<sup>26</sup> United Nations, *Treaty Series*, vol. 221, p. 79.

of the French courts and be settled in accordance with French law, save as otherwise provided by the terms of individual contracts or by French legislation.

No interim orders may, however, be made against the Trade Delegation.

Execution of judgements relating to transactions to which the Trade Delegation of the Union of Soviet Socialist Republics in France is a party may be taken against all State property of the Union of Soviet Socialist Republics in France, in particular property, rights and interests arising from transactions concluded or guaranteed by the Trade Delegation of the Union of Soviet Socialist Republics in France, with the exception of property belonging to an organization as referred to in the second paragraph of article 8.

Property and premises intended solely for the exercise in France of the political and diplomatic rights of the Government of the Union of Soviet Socialist Republics in accordance with international practice, as well as the premises occupied by the Trade Delegation of the Union of Soviet Socialist Republics in France and the movable property situated there, shall be liable to execution.

- (e) UNION OF SOVIET SOCIALIST REPUBLICS AND FEDERAL REPUBLIC OF GERMANY. AGREEMENT (WITH ANNEX AND EXCHANGE OF LETTERS) CONCERNING GENERAL MATTERS OF TRADE AND NAVIGATION. SIGNED AT BONN, ON 25 APRIL 1958<sup>27</sup>

#### ANNEX

THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE FEDERAL REPUBLIC OF GERMANY

...

#### Article 4

The rights, immunities and privileges accorded to the Trade Delegation under article 2, first paragraph, of this annex shall extend to its commercial activities, with the following exceptions:

(a) Disputes arising out of commercial contracts concluded or guaranteed in the territory of the Federal Republic of Germany under article 3 of this annex by the Trade Delegation shall, in the absence of agreement regarding arbitration or any other jurisdiction, be subject to the jurisdiction of the courts of the Federal Republic of Germany; in these disputes the defendant or plaintiff shall be the Trade Delegation of the Union of Soviet Socialist Republics in the Federal Republic of Germany. No interim orders may, however, be made against the Trade Delegation;

(b) Final judicial decisions against the Trade Delegation in the disputes referred to in paragraph (a) hereof which have become legally valid may be enforced by execution. Such execution may be levied on all State property of the Union of Soviet Socialist Republics in the Federal Republic of Germany, in particular property, rights and interests arising out of contracts concluded or guaranteed by the Trade Delegation, with the exception of property belonging to the organizations referred to in article 3, third paragraph, of this annex.

Property and premises intended solely for the exercise in the Federal Republic of Germany of the political and diplomatic rights of the Union of Soviet Socialist Republics, in accordance with international practice, and also the premises occupied by the Trade Delegation and the movable property situated therein, shall not be liable to execution measures.

---

<sup>27</sup> United Nations, *Treaty Series*, vol. 346, p. 71.

- (f) UNION OF SOVIET SOCIALIST REPUBLICS AND ITALY. TREATY OF COMMERCE AND NAVIGATION (WITH ANNEX AND PROTOCOL). SIGNED AT MOSCOW, ON 11 DECEMBER 1948<sup>28</sup>

#### ANNEX

#### THE LEGAL STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN ITALY

...

#### Article 4

The immunities and privileges accorded to the Trade Delegation shall extend to its commercial activities, with the following exceptions:

(a) Disputes regarding commercial contracts concluded or guaranteed in the territory of Italy by the Trade Delegation shall, in the absence of an arbitration clause, be subject to the jurisdiction of the Italian courts and shall be settled in accordance with Italian law, save as otherwise provided by the terms of individual contracts. No interim orders may, however, be made against the Trade Delegation;

(b) Final judicial decisions against the Trade Delegation in the aforementioned disputes may be enforced by execution; nevertheless such execution may be levied only on the Trade Delegation's goods, the claims outstanding to its credit, and its other assets directly attributable to the commercial transactions concluded by it.

- (g) UNION OF SOVIET SOCIALIST REPUBLICS AND JAPAN. TREATY OF COMMERCE (WITH ANNEX AND EXCHANGE OF NOTES). SIGNED AT TOKYO, ON 6 DECEMBER 1957<sup>29</sup>

...

#### Article 4

The Trade Delegation shall enjoy the privileges and immunities arising out of the provisions of article 2, with the following exceptions:

Disputes regarding commercial contracts concluded or guaranteed in the territory of Japan by the Trade Delegation under the provisions of article 3, second paragraph, shall, in the absence of an arbitration agreement or an agreement providing for any other jurisdiction, be subject to the jurisdiction of the Japanese courts and shall be settled in accordance with Japanese law, save as otherwise provided by the terms of individual contracts or by Japanese legislation. No interim orders may, however, be made against the Trade Delegation.

In respect of legal proceedings before the courts in connexion with actions which may be brought concerning the disputes mentioned in the preceding paragraph, the Government of the Union of Soviet Socialist Republics shall waive the privileges and immunities referred to in article 2 on behalf of the Trade Delegate and his two deputies and undertakes to authorize the Trade Delegate and, in the event of his absence, a deputy Trade Delegate to represent its country so that the Japanese courts may conduct legal proceedings in the actions which may be brought before them in accordance with the provisions of the preceding paragraph.

Execution of judgements relating to contracts to which the Trade Delegation is a party may be taken against all State property of the Union of Soviet Socialist Repub-

<sup>28</sup> United Nations, *Treaty Series*, vol. 217, p. 181.

<sup>29</sup> United Nations, *Treaty Series*, vol. 325, p. 35.

lics in Japan, in particular property, rights and interests arising out of contracts concluded or guaranteed by the Trade Delegation, with exception of property belonging to the organizations referred to in article 3, fourth paragraph, which are not a party to the contract guaranteed by the Trade Delegation.

Property and premises intended solely for the exercise in Japan of the diplomatic and consular rights of the Government of the Union of Soviet Socialist Republics, in accordance with international practice, and also the premises occupied by the Trade Delegation and the movable property situated therein, shall not be liable to execution.

- (h) UNION OF SOVIET SOCIALIST REPUBLICS AND THE KINGDOM OF THE NETHERLANDS. PROTOCOL CONCERNING THE STATUTE OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE NETHERLANDS. SIGNED AT BRUSSELS ON 14 JUNE 1971<sup>30</sup>

...

#### *Article 7*

The Trade Delegation shall enjoy the privileges and immunities arising out of the present Protocol, with the following exceptions.

Disputes regarding commercial transactions concluded or guaranteed on the territory of the Netherlands by the Trade Delegation shall be subject, in the absence of a reservation in the contracts regarding arbitration or any other jurisdiction, to the competence of the courts of the Netherlands and shall be settled, in accordance with its national law. No interim orders may, however, be made against the Trade Delegation.

Execution of all final judicial decisions which have become legally valid, in respect of commercial transactions concluded or guaranteed by the Trade Delegation, may be taken against all State property of the Union of Soviet Socialist Republics, in particular property, rights and interests arising out of the aforementioned transactions, with the exception of property belonging to the organizations mentioned in the second paragraph of article 6 of the present Protocol.

Property and premises, intended solely for the exercise in the Netherlands of the political and diplomatic rights of the Government of the Union of Soviet Socialist Republics, in accordance with international practice, and also premises occupied by the Trade Delegation and the movable property situated therein, shall not be subject to measures of distraint.

- (i) UNION OF SOVIET SOCIALIST REPUBLICS AND SWITZERLAND. AGREEMENT CONCERNING THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN SWITZERLAND. SIGNED AT MOSCOW, ON 17 MARCH 1948<sup>31</sup>

...

#### *Article 5*

The rights and privileges accorded to the Trade Delegation under article 3 above shall extend also to its commercial activities, with the following exceptions:

<sup>30</sup> *Tractatenblad van het Koninkrijk der Nederlanden*, Jaargang 1971, nr. 163.

<sup>31</sup> United Nations, *Treaty Series*, vol. 217, p. 87.



(a) Disputes regarding commercial contracts concluded or guaranteed in the territory of Switzerland by the Trade Delegation under article 4 of this Agreement shall, in the absence of a reservation regarding arbitration or any other jurisdiction, be subject to the competence of the Swiss courts. No interim orders may, however, be made against the Trade Delegation.

(b) Final judicial decisions against the Trade Delegation in the aforementioned disputes may be enforced by execution; nevertheless, such execution may be levied only on the assets of the Trade Delegations and the goods which are its property.

#### **4. Treaties between Socialist countries and developing countries**

- (a) UNION OF SOVIET SOCIALIST REPUBLICS AND BOLIVIA. PROTOCOL. THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA, DESIRING TO PROMOTE THE DEVELOPMENT OF TRADE RELATIONS BETWEEN THE TWO COUNTRIES, HAVE AGREED AS FOLLOWS. SIGNED IN MOSCOW ON 17 AUGUST 1970<sup>32</sup>

...

##### *Article 6*

The Trade Mission shall enjoy the privileges and immunities deriving from the provisions of article 3 with the following exceptions:

1. Disputes arising from commercial transactions concluded or guaranteed in Bolivian territory by the Trade Mission under the provisions of the second paragraph of article 5 shall fall within the competence of the Bolivian courts if the transaction in question does not contain a reservation regarding arbitration and does not expressly provide otherwise and if the parties concerned do not come to some other agreement. No interim orders may, however, be made against the Trade Mission.

2. The enforcement of judicial decisions relating to transactions concluded or guaranteed by the Trade Mission may be effected in respect of State property of the USSR in Bolivia, and particularly in respect of property, rights and interests arising from transactions concluded or guaranteed by the Trade Mission.

In accordance with international practice, property and premises intended for the functioning in Bolivia of the Embassy and Trade Mission of the USSR, as well as movable property and appurtenances present on the said premises, shall not be subject to any measures of forcible recovery.

- (b) UNION OF SOVIET SOCIALIST REPUBLICS AND BRAZIL. PROTOCOL CONCERNING THE REORGANIZATION OF THE SOVIET TRADE MISSION IN BRAZIL AS THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN BRAZIL. SIGNED AT RIO DE JANEIRO, ON 20 APRIL 1963<sup>33</sup>

...

##### *Article 5*

The Trade Delegation shall enjoy the immunities and privileges deriving from the provisions of article 1, with the following exceptions:

<sup>32</sup> See Certified Text No. 13736 (Office of Legal Affairs/Treaty Section).

<sup>33</sup> United Nations, *Treaty Series*, vol. 646, p. 277.

1. Disputes regarding commercial contracts concluded or guaranteed in the territory of Brazil by the Trade Delegation in accordance with the provisions of the second paragraph of article 4 shall, in the absence of a reservation in the contract concerning the court of arbitration or unless otherwise specified in the terms of the contract or otherwise agreed between the interested parties, be subject to the competence of the Brazilian courts. No interim orders may, however, be made against the Trade Delegation.

2. In respect of judicial proceedings conducted by Brazilian courts in connexion with actions brought as a result of disputes of the kind described in the preceding paragraph, the Government of the USSR shall not invoke the immunities and privileges referred to in article 2 on behalf of the Trade Representative, his two deputies or other members of the Trade Delegation, and it undertakes to authorize the Trade Representative or, in his absence, one of the deputy Trade Representatives to represent his country for the purpose of enabling the Brazilian courts to conduct judicial proceedings in connexion with the actions brought before them in accordance with the provisions of the preceding paragraph.

Enforcement of judicial decisions relating to contracts to which the Trade Delegation is a party may be effected in respect of any of the State property of the Union of Soviet Socialist Republics in Brazil, and in particular the property, rights and interests arising out of contracts concluded or guaranteed by the Trade Delegation, but excluding the property of the organizations referred to in the fourth paragraph of article 4 which are not parties to contracts guaranteed by the Trade Delegation.

In accordance with international practice, no measures of forcible recovery may be taken against property or premises intended exclusively for the performance in Brazil of the functions of the USSR Embassy, Trade Delegation or Consulate, or against any moveable property or appurtenances on such premises.

(c) UNION OF SOVIET SOCIALIST REPUBLICS AND COSTA RICA. PROTOCOL. THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA, DESIRING TO DEVELOP TRADE RELATIONS BETWEEN THE TWO COUNTRIES, HAVE AGREED AS FOLLOWS. SIGNED IN MOSCOW ON 26 JUNE 1970<sup>34</sup>

...

#### *Article 4*

The Trade Mission of the USSR shall enjoy the immunities and privileges deriving from the provisions of article 2 of this Protocol with the following exceptions:

(a) Disputes relating to commercial transactions concluded or guaranteed on behalf of the Trade Mission under article 3 of this Protocol shall fall within the competence of the Costa Rican courts if the transaction in question does not contain a reservation regarding arbitration and does not expressly provide otherwise and if the parties concerned do not come to some other agreement; in such cases, the Trade Mission shall authorize a representative to appear in court.

(b) The enforcement of judicial decisions relating to transactions concluded or

<sup>34</sup> See Certified Text No. 13734 (Office of Legal Affairs/Treaty Section).

guaranteed by the Trade Mission may be affected in respect of State property of the USSR in Costa Rica, particularly in respect of property, rights and interests arising from transactions concluded or guaranteed by the Trade Mission.

In accordance with international practice, property and premises required for the normal functioning of the Trade Mission and, if the Parties exchange diplomatic representatives, the property and premises of the diplomatic mission of the USSR shall constitute an exception.

- (d) UNION OF SOVIET SOCIALIST REPUBLICS AND EGYPT. PROTOCOL ON THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE REPUBLIC OF EGYPT. SIGNED AT CAIRO ON 15 JULY 1956<sup>35</sup>

...

#### *Article 6*

The privileges and immunities accorded to the Trade Delegation under article 3 above shall apply also to its trading activities, with the following exceptions:

(a) Disputes relating to commercial contracts concluded or guaranteed in the Republic of Egypt by the Trade Delegation in accordance with article 2 of this Protocol shall, in the absence of an arbitration clause, be subject to the jurisdiction of the courts of the Republic of Egypt, and in such cases the Trade Delegation shall designate a representative to appear on its behalf before the court;

(b) Execution may be levied in respect of final judicial decisions against the Trade Delegation in disputes of the kind mentioned above but only on the property of the Trade Delegation and on goods belonging to it.

- (e) UNION OF SOVIET SOCIALIST REPUBLICS AND GHANA. PROTOCOL ON LEGAL STATUS OF THE TRADE REPRESENTATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE REPUBLIC OF GHANA. SIGNED AT ACCRA ON 2 JULY 1961<sup>36</sup>

...

#### *Article 4*

Any question which may arise in respect of commercial transactions entered into or guaranteed in the Republic of Ghana by the Trade Representation shall be determined by the Courts of the Republic of Ghana in accordance with the laws thereof and in such cases the Trade Representation or its representative shall submit to the jurisdiction of such Courts.

Property of the Union of Soviet Socialist Republics in the Republic of Ghana shall be subject to such measures as may lawfully be taken to give effect to the orders of the Courts of the Republic of Ghana in so far as these orders have been issued in connexion with transactions referred to in paragraph 1 of the present article unless it is property which according to International Law is immune from such

<sup>35</sup> United Nations, *Treaty Series*, vol. 687, p. 221.

<sup>36</sup> United Nations, *Treaty Series*, vol. 655, p. 171.

measures, as being necessary for the exercise of the rights of State Sovereignty or for the official function of Diplomatic or Consular Representatives of the Union of Soviet Socialist Republics.

- (f) UNION OF SOVIET SOCIALIST REPUBLICS AND INDIA. TRADE AGREEMENT (WITH SCHEDULES AND EXCHANGE OF LETTERS). SIGNED AT NEW DELHI, ON 2 DECEMBER 1953<sup>37</sup>

EXCHANGE OF LETTERS

1

New Delhi, the 2nd December, 1953

...

3. It was agreed that the commercial transactions entered into or guaranteed in India by the members of the Trade Representation including those stationed in New Delhi shall be subject to the jurisdiction of the Courts of India and the laws thereof unless otherwise provided by agreement between the contracting parties to the said transactions. Only the goods, debt demands and other assets of the Trade Representation directly relating to the commercial transactions concluded or guaranteed by the Trade Representation shall be liable in execution of decrees and orders passed in respect of such transactions. It was understood that the Trade Representation will not be responsible for any transactions concluded by other Soviet Organisations direct, without the Trade Representation's guarantee.

- (g) UNION OF SOVIET SOCIALIST REPUBLICS AND IRAQ. PROTOCOL ON THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE REPUBLIC OF IRAQ. SIGNED AT BAGHDAD, ON 11 OCTOBER 1958<sup>38</sup>

...

*Article 6*

The privileges and immunities accorded to the Trade Delegation under article 3 above shall apply also to its trading activities, with the following exceptions only:

(a) Disputes regarding commercial contracts concluded or guaranteed in the Republic of Iraq by the Trade Delegation under article 2 of this Protocol shall be subject to the competence of the courts of the Republic of Iraq, unless provision to the contrary is made under the terms of individual contracts;

(b) Forcible execution of final judicial decisions against the Trade Delegation in the above-mentioned disputes may be levied only on the property of the Trade Delegation and on goods belonging to it.

<sup>37</sup> United Nations, *Treaty Series*, vol. 240, p. 143.

<sup>38</sup> United Nations, *Treaty Series*, vol. 328, p. 118.

- (h) UNION OF SOVIET SOCIALIST REPUBLICS AND SINGAPORE. TRADE AGREEMENT (WITH ANNEX AND EXCHANGE OF LETTERS). SIGNED AT SINGAPORE, ON 2 APRIL 1966<sup>39</sup>

...

#### *Article 16*

The Trade Representation of the U.S.S.R. enjoys the immunities and privileges resulting from the provisions of Article 12 with the following exemptions:

(a) Disputes on commercial transactions concluded or guaranteed in the Republic of Singapore by the Trade Representation in accordance with Article 15 of this Agreement are subject in the absence of any clause regarding arbitration to the jurisdiction of Singapore courts and in such cases the Trade Representation shall authorize its representative to appear in court;

(b) The enforcement of a final court decision brought against the Trade Representation as a result of the above disputes can take place but the same can be applied only to funds of the Trade Representation and to goods being its property.

- (i) UNION OF SOVIET SOCIALIST REPUBLICS AND TOGO. PROTOCOL CONCERNING THE STATUS OF THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE TOGOLESE REPUBLIC. SIGNED AT LOMÉ ON 14 JUNE 1961<sup>40</sup>

...

#### *Article 4*

The privileges and immunities accorded to the Trade Delegation under article 2 shall apply also to its commercial activities, with the following exceptions:

(a) Disputes regarding commercial transactions concluded or guaranteed in Togo by the Trade Delegation under article 3 of this Protocol shall, in the absence of a reservation regarding arbitration, be within the jurisdiction of the competent courts of the Togolese Republic; in such cases, the Trade Delegation shall authorize a representative to appear in court. No interim orders may, however, be made against the Trade Delegation;

(b) Compulsory execution of final judgements against the Trade Delegation following such disputes may be taken against all State property of the USSR in Togo, in particular property, rights and interests arising from transactions concluded or guaranteed by the Trade Delegation, with the exception of property belonging to an organization referred to in the second paragraph of article 3.

---

<sup>39</sup> United Nations, *Treaty Series*, vol. 631, p. 125.

<sup>40</sup> United Nations, *Treaty Series*, vol. 730, p. 187.

- (j) UNION OF SOVIET SOCIALIST REPUBLICS AND YEMEN. PROTOCOL ON THE TRADE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE YEMEN ARAB REPUBLIC. SIGNED AT SANA'A ON 19 MARCH 1963<sup>41</sup>

...

#### Article 6

The privileges and immunities accorded to the Trade Delegation under article 3 above shall apply also to its trading activities, with the following exceptions:

(a) Disputes relating to commercial contracts concluded or guaranteed in the Yemen Arab Republic by the Trade Delegation in accordance with article 2 of the Protocol shall, in the absence of a reservation regarding arbitration, be subject to the jurisdiction of the Yemeni courts, and in this case the Trade Delegation shall designate a representative to appear on its behalf before the courts;

(b) Execution may be levied in respect of final judicial decisions against the Trade Delegation in disputes of the kind mentioned above, but only on the property of the Trade Delegation and on goods belonging to it.

## B. MULTILATERAL TREATIES

### 1. Bustamante Code, Code of Private International Law of 1928<sup>42</sup>

...

*Article 333.* The judges and courts of each contracting State shall be incompetent to take cognizance of civil or commercial cases to which the other contracting States or their heads are defendant parties, if the action is a personal one, except in case of express submission or of counterclaims.

*Article 334.* In the same case and with the same exception, they shall be incompetent when real actions are exercised, if the contracting State or its head has acted on the case as such and in its public character, when the provisions of the last paragraph of Article 318 shall be applied.

*Article 335.* If the foreign contracting State or its head has acted as an individual or private person, the judges or courts shall be competent to take cognizance of the cases where real or mixed actions are brought, if such competence belongs to them in respect to foreign individuals in conformity with this Code.

*Article 336.* The rule of the preceding article shall be applicable to universal causes (*juicios universales*, e.g., distribution of a bankrupt's or decedent's effects), whatever the character in which the contracting foreign State or its head intervenes in them.

*Article 337.* The provisions established in preceding articles shall be applied to foreign diplomatic agents and to the commanders of war vessels or aircraft.

<sup>41</sup> United Nations, *Treaty Series*, vol. 672, p. 315.

<sup>42</sup> *The International Conference of American States* (ed. by James Brown Scott) (1931), p. 359. The Code was adopted at the Sixth Interamerican Conference at Havana in 1928.

*Article 338.* Foreign consuls shall not be exempt from the civil jurisdiction of the judges and courts of the country in which they act, except in respect to their official acts.

## **2. Convention on the Recognition and Enforcement of Foreign Arbitral Awards. (Done at New York, on 10 June 1958)<sup>43</sup>**

...

### *Article II*

1. Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

### *Article III*

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

...

### *Article V*

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that:

(a) The parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

---

<sup>43</sup> United Nations, *Treaty Series*, vol. 330, p. 38.

(c) The award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or

(d) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

(a) The subject matter of the difference is not capable of settlement by arbitration under the law of that country; or

(b) The recognition or enforcement of the award would be contrary to the public policy of that country.

#### *Article VI*

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V (1) (e), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

#### *Article VII*

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

2. The Geneva Protocol on Arbitration Clauses of 1923<sup>44</sup> and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927<sup>45</sup> shall cease to have ef-

<sup>44</sup> League of Nations, *Treaty Series*, Vol. XXVII, p. 157; Vol. XXXI, p. 260; Vol. XXXV, p. 314; Vol. XXXIX, p. 190; Vol. XLV, p. 116; Vol. L, p. 161; Vol. LIX, p. 355; Vol. LXIX, p. 79; Vol. LXXII, p. 452; Vol. LXXXIII, p. 393; Vol. LXXXVIII, p. 312; Vol. XCVI, p. 190; Vol. C, p. 211; Vol. CIV, p. 499; Vol. CVII, p. 470; Vol. CXI, p. 403; Vol. CXVII, p. 55; Vol. CLVI, p. 185; Vol. CLXXXI, p. 356; Vol. CLXXXV, p. 372; Vol. CXCI, p. 268, and Vol. CC, p. 500; and United Nations, *Treaty Series*, Vol. 117, p. 394; Vol. 261, p. 422, and Vol. 325.

<sup>45</sup> League of Nations, *Treaty Series*, Vol. XCII, p. 301; Vol. XCVI, p. 205; Vol. C, p. 259; Vol. CIV, p. 526; Vol. CVII, p. 528; Vol. CXI, p. 414; Vol. CXVII, p. 303; Vol. CXXX, p. 457; Vol. CLVI, p. 210; Vol. CLXXXI, p. 389; Vol. CLXXXV, p. 391, and Vol. CXCI, p. 269; and United Nations, *Treaty Series*, Vol. 122, p. 346; Vol. 134, p. 402; Vol. 269, p. 384, and Vol. 325.



fect between Contracting States on their becoming bound and to the extent that they become bound, by this Convention.

...

#### *Article XI*

In the case of a federal or non-unitary State, the following provisions shall apply:

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;

(c) A federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

...

#### *Article XIII*

...

2. Any State which has made a declaration or notification under article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.

3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

#### *Article XIV*

A Contracting State shall not be entitled to avail itself of the present Convention against other Contracting States except to the extent that it is itself bound to apply the Convention.

### **3. Convention on the Execution of Foreign Arbitral Awards. (Signed at Geneva on 26 September 1927)<sup>46</sup>**

#### *Article I*

In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement whether relating to ex-

<sup>46</sup> League of Nations, *Treaty Series*, vol. XCII, p. 301.

isting or future differences (hereinafter called "a submission to arbitration") covered by the Protocol on Arbitration Clauses, opened at Geneva on September 24, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary:

(a) That the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

(b) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;

(c) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

(d) That the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to *opposition*, *appel* or *pourvoi en cassation* (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

(e) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

## Article 2

Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:

(a) That the award has been annulled in the country in which it was made;

(b) That the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;

(c) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

**4. Convention on the High Seas. (Done at Geneva, on 29 April 1958)<sup>47</sup>**

...

*Article 9*

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

**5. Convention on the Settlement of Investment Disputes between States and Nationals of other States. (Opened for signature at Washington, on 18 March 1965)<sup>48</sup>**

...

**SECTION 6. RECOGNITION AND ENFORCEMENT OF THE AWARD**

*Article 53*

(1) The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provisions of this Convention.

(2) For the purposes of this Section, "award" shall include any decision interpreting, revising or annulling such award pursuant to Articles 50, 51 or 52.

*Article 54*

(1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state.

(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.

(3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.

*Article 55*

Nothing in Article 54 shall be construed as derogating from the law in force in

<sup>47</sup> United Nations, *Treaty Series*, vol. 450, p. 82.

<sup>48</sup> United Nations, *Treaty Series*, vol. 575, p. 159.

any Contracting State relating to immunity of that State or of any foreign State from execution.

## **6. Convention on the Territorial Sea and the Contiguous Zone. (Done at Geneva, on 29 April 1958)<sup>49</sup>**

...

### **SUB-SECTION C. RULES APPLICABLE TO GOVERNMENT SHIPS OTHER THAN WARSHIPS**

#### *Article 21*

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

#### *Article 22*

1. The rules contained in sub-section A and in article 18 shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

## **7. European Convention on State Immunity and Additional Protocol<sup>50</sup>**

### **PREAMBLE**

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members;

Taking into account the fact that there is in international law a tendency to restrict the cases in which a State may claim immunity before foreign courts;

Desiring to establish in their mutual relations common rules relating to the scope of the immunity of one State from the jurisdiction of the courts of another State, and designed to ensure compliance with judgments given against another State;

Considering that the adoption of such rules will tend to advance the work of harmonisation undertaken by the member States of the Council of Europe in the legal field,

Have agreed as follows:

### **CHAPTER I. IMMUNITY FROM JURISDICTION**

#### *Article 1*

1. A Contracting State which institutes or intervenes in proceedings before a

<sup>49</sup> United Nations, *Treaty Series*, vol. 516, p. 205.

<sup>50</sup> *Council of Europe*, No. 74 (1972).

court of another Contracting State submits, for the purpose of those proceedings, to the jurisdiction of the courts of that State.

2. Such a Contracting State cannot claim immunity from the jurisdiction of the courts of the other Contracting State in respect of any counterclaim:

(a) arising out of the legal relationship or the facts on which the principal claim is based;

(b) if, according to the provisions of this Convention, it would not have been entitled to invoke immunity in respect of that counterclaim had separate proceedings been brought against it in those courts.

3. A Contracting State which makes a counterclaim in proceedings before a court of another Contracting State submits to the jurisdiction of the courts of that State with respect not only to the counterclaim but also to the principal claim.

#### *Article 2*

A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if it has undertaken to submit to the jurisdiction of that court either:

(a) by international agreement;

(b) by an express term contained in a contract in writing; or

(c) by an express consent given after a dispute between the parties has arisen.

#### *Article 3*

1. A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if, before claiming immunity, it takes any step in the proceedings relating to the merits. However, if the State satisfies the court that it could not have acquired knowledge of facts on which a claim to immunity can be based until after it has taken such a step, it can claim immunity based on these facts if it does so at the earliest possible moment.

2. A Contracting State is not deemed to have waived immunity if it appears before a court of another Contracting State in order to assert immunity.

#### *Article 4*

1. Subject to the provisions of Article 5, a Contracting State cannot claim immunity from the jurisdiction of the courts of another Contracting State if the proceedings relate to an obligation of the State, which, by virtue of a contract, falls to be discharged in the territory of the State of the forum.

2. Paragraph 1 shall not apply:

(a) in the case of a contract concluded between States;

(b) if the parties to the contract have otherwise agreed in writing;

(c) if the State is party to a contract concluded on its territory and the obligation of the State is governed by its administrative law.

#### *Article 5*

1. A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if the proceedings relate to a contract of employment

between the State and an individual where the work has to be performed on the territory of the State of the forum.

2. Paragraph 1 shall not apply where:

(a) the individual is a national of the employing State at the time when the proceedings are brought;

(b) at the time when the contract was entered into the individual was neither a national of the State of the forum nor habitually resident in that State; or

(c) the parties to the contract have otherwise agreed in writing, unless, in accordance with the law of the State of the forum, the courts of that State have exclusive jurisdiction by reason of the subject-matter.

3. Where the work is done for an office, agency or other establishment referred to in Article 7, paragraphs 2 (a) and (b) of the present Article apply only if, at the time the contract was entered into, the individual had his habitual residence in the Contracting State which employs him.

#### *Article 6*

1. A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if it participates with one or more private persons in a company, association or other legal entity having its seat, registered office or principal place of business on the territory of the State of the forum, and the proceedings concern the relationship, in matters arising out of that participation, between the State on the one hand and the entity or any other participant on the other hand.

2. Paragraph 1 shall not apply if it is otherwise agreed in writing.

#### *Article 7*

1. A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if it has on the territory of the State of the forum an office, agency or other establishment through which it engages, in the same manner as a private person, in an industrial, commercial or financial activity, and the proceedings relate to that activity of the office, agency or establishment.

2. Paragraph 1 shall not apply if all the parties to the dispute are States, or if the parties have otherwise agreed in writing.

#### *Article 8*

A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if the proceedings relate:

(a) to a patent, industrial design, trade-mark, service mark or other similar right which, in the State of the forum, has been applied for, registered or deposited or is otherwise protected, and in respect of which the State is the applicant or owner;

(b) to an alleged infringement by it, in the territory of the State of the forum, of such a right belonging to a third person and protected in that State;

(c) to an alleged infringement by it, in the territory of the State of the forum, of copyright belonging to a third person and protected in that State;

(d) to the right to use a trade name in the State of the forum.

#### Article 9

A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if the proceedings relate to:

(a) its rights or interests in, or its use or possession of, immovable property; or

(b) its obligations arising out of its rights or interests in, or use or possession of, immovable property

and the property is situated in the territory of the State of the forum.

#### Article 10

A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State if the proceedings relate to a right in movable or immovable property arising by way of succession, gift or *bona vacantia*.

#### Article 11

A Contracting State cannot claim immunity from the jurisdiction of a court of another Contracting State in proceedings which relate to redress for injury to the person or damage to tangible property, if the facts which occasioned the injury or damage occurred in the territory of the State of the forum, and if the author of the injury or damage was present in that territory at the time when those facts occurred.

#### Article 12

1. Where a Contracting State has agreed in writing to submit to arbitration a dispute which has arisen or may arise out of a civil or commercial matter, that State may not claim immunity from the jurisdiction of a court of another Contracting State on the territory or according to the law of which the arbitration has taken or will take place in respect of any proceedings relating to:

(a) the validity or interpretation of the arbitration agreement;

(b) the arbitration procedure;

(c) the setting aside of the award,

unless the arbitration agreement otherwise provides.

2. Paragraph 1 shall not apply to an arbitration agreement between States.

#### Article 13

Paragraph 1 of Article 1 shall not apply where a Contracting State asserts, in proceedings pending before a court of another Contracting State to which it is not a party, that it has a right or interest in property which is the subject-matter of the proceedings, and the circumstances are such that it would have been entitled to immunity if the proceedings had been brought against it.

#### Article 14

Nothing in this Convention shall be interpreted as preventing a court of a Contracting State from administering or supervising or arranging for the administration of property, such as trust property or the estate of a bankrupt, solely on account of the fact that another Contracting State has a right or interest in the property.

*Article 15*

A Contracting State shall be entitled to immunity from the jurisdiction of the courts of another Contracting State if the proceedings do not fall within Articles 1 to 14; the court shall decline to entertain such proceedings even if the State does not appear.

## CHAPTER II. PROCEDURAL RULES

*Article 16*

1. In proceedings against a Contracting State in a court of another Contracting State, the following rules shall apply.

2. The competent authorities of the State of the forum shall transmit the original or a copy of the document by which the proceedings are instituted; a copy of any judgment given by default against a State which was defendant in the proceedings,

through the diplomatic channel to the Ministry of Foreign Affairs of the defendant State, for onward transmission, where appropriate, to the competent authority. These documents shall be accompanied, if necessary, by a translation into the official language, or one of the official languages, of the defendant State.

3. Service of the documents referred to in paragraph 2 is deemed to have been effected by their receipt by the Ministry of Foreign Affairs.

4. The time-limits within which the State must enter an appearance or appeal against any judgment given by default shall begin to run two months after the date on which the document by which the proceedings were instituted or the copy of the judgment is received by the Ministry of Foreign Affairs.

5. If it rests with the court to prescribe the time-limits for entering an appearance or for appealing against a judgment given by default, the court shall allow the State not less than two months after the date on which the document by which the proceedings are instituted or the copy of the judgment is received by the Ministry of Foreign Affairs.

6. A Contracting State which appears in the proceedings is deemed to have waived any objection to the method of service.

7. If the Contracting State has not appeared, judgment by default may be given against it only if it is established that the document by which the proceedings were instituted has been transmitted in conformity with paragraph 2, and that the time-limits for entering an appearance provided for in paragraphs 4 and 5 have been observed.

*Article 17*

No security, bond or deposit, however described, which could not have been required in the State of the forum of a national of that State or a person domiciled or resident there, shall be required of a Contracting State to guarantee the payment of judicial costs or expenses. A State which is a claimant in the courts of another Contracting State shall pay any judicial costs or expenses for which it may become liable.



### *Article 18*

A Contracting State party to proceedings before a court of another Contracting State may not be subjected to any measure of coercion, or any penalty, by reason of its failure or refusal to disclose any documents or other evidence. However the court may draw any conclusion it thinks fit from such failure or refusal.

### *Article 19*

1. A court before which proceedings to which a Contracting State is a party are instituted shall, at the request of one of the parties or, if its national law so permits, of its own motion, decline to proceed with the case or shall stay the proceedings if other proceedings between the same parties, based on the same facts and having the same purpose.

(a) are pending before a court of that Contracting State, and were the first to be instituted; or

(b) are pending before a court of any other Contracting State, were the first to be instituted and may result in a judgment to which the State party to the proceedings must give effect by virtue of Article 20 or Article 25.

2. Any Contracting State whose law gives the courts a discretion to decline to proceed with a case or to stay the proceedings in cases where proceedings between the same parties, based on the same facts and having the same purpose, are pending before a court of another Contracting State, may, by notification addressed to the Secretary General of the Council of Europe, declare that its courts shall not be bound by the provisions of paragraph 1.

## CHAPTER III. EFFECT OF JUDGMENT

### *Article 20*

1. A Contracting State shall give effect to a judgment given against it by a court of another Contracting State:

(a) if, in accordance with the provisions of Articles 1 to 13, the State could not claim immunity from jurisdiction; and

(b) if the judgment cannot or can no longer be set aside if obtained by default, or if it is not or is no longer subject to appeal or any other form of ordinary review or to annulment.

2. Nevertheless, a Contracting State is not obliged to give effect to such a judgment in any case:

(a) where it would be manifestly contrary to public policy in that State to do so, or where, in the circumstances, either party had no adequate opportunity fairly to present his case;

(b) where proceedings between the same parties, based on the same facts and having the same purpose:

(i) are pending before a court of that State and were the first to be instituted;

(ii) are pending before a court of another Contracting State, were the first to be instituted and may result in a judgment to which the State party to the proceedings must give effect under the terms of this Convention;

(c) where the result of the judgment is inconsistent with the result of another judgment given between the same parties:

- (i) by a court of the Contracting State, if the proceedings before that court were the first to be instituted or if the other judgment has been given before the judgment satisfied the conditions specified in paragraph 1 (b); or
- (ii) by a court of another Contracting State where the other judgment is the first to satisfy the requirements laid down in the present Convention;

(d) where the provisions of Article 16 have not been observed and the State has not entered an appearance or has not appealed against a judgment by default.

3. In addition, in the cases provided for in Article 10, a Contracting State is not obliged to give effect to the judgment.

(a) if the courts of the State of the forum would not have been entitled to assume jurisdiction had they applied, *mutatis mutandis*, the rules of jurisdiction (other than those mentioned in the Annex to the present Convention) which operate in the State against which judgment is given; or

(b) if the court, by applying a law other than that which would have been applied in accordance with the rules of private international law of that State, has reached a result different from that which would have been reached by applying the law determined by those rules.

However, a Contracting State may not rely upon the grounds of refusal specified in sub-paragraphs (a) and (b) above if it is bound by an agreement with the State of the forum on the recognition and enforcement of judgments and the judgment fulfils the requirement of that agreement as regards jurisdiction and, where appropriate, the law applied.

#### Article 21

1. Where a judgment has been given against a Contracting State and that State does not give effect thereto, the party which seeks to invoke the judgment shall be entitled to have determined by the competent court of that State the question whether effect should be given to the judgment in accordance with Article 20. Proceedings may also be brought before this court by the State against which judgment has been given, if its law so permits.

2. Save in so far as may be necessary for the application of Article 20, the competent court of the State in question may not review the merits of the judgment.

3. Where proceedings are instituted before a court of a State in accordance with paragraph 1:

- (a) the parties shall be given an opportunity to be heard in the proceedings;
- (b) documents produced by the party seeking to invoke the judgment shall not be subject to legalisation or any other like formality;
- (c) no security, bond or deposit, however described, shall be required of the party invoking the judgment by reason of his nationality, domicile or residence;
- (d) the party invoking the judgment shall be entitled to legal aid under conditions no less favourable than those applicable to nationals of the State who are domiciled and resident therein.

4. Each Contracting State shall, when depositing its instrument of ratification, acceptance or accession, designate the court or courts referred to in paragraph 1, and inform the Secretary General of the Council of Europe thereof.

#### *Article 22*

1. A Contracting State shall give effect to a settlement to which it is a party and which has been made before a court of another Contracting State in the course of the proceedings; the provisions of Article 20 do not apply to such a settlement.

2. If the State does not give effect to the settlement, the procedure provided for in Article 21 may be used.

#### *Article 23*

No measures of execution or preventive measures against the property of a Contracting State may be taken in the territory of another Contracting State except where and to the extent that the State has expressly consented thereto in writing in any particular case.

### CHAPTER IV. OPTIONAL PROVISIONS

#### *Article 24*

1. Notwithstanding the provisions of Article 15, any State may, when signing this Convention or depositing its instrument of ratification, acceptance or accession, or at any later date, by notification addressed to the Secretary General of the Council of Europe, declare that, in cases not falling within Articles 1 to 13, its courts shall be entitled to entertain proceedings against another Contracting State to the extent that its courts are entitled to entertain proceedings against States not Party to the present Convention. Such a declaration shall be without prejudice to the immunity from jurisdiction which foreign States enjoy in respect of acts performed in the exercise of sovereign authority (*acta jure imperii*).

2. The courts of a State which has made the declaration provided for in paragraph 1 shall not however be entitled to entertain such proceedings against another Contracting State if their jurisdiction could have been based solely on one or more of the grounds mentioned in the Annex to the present Convention, unless that other Contracting State has taken a step in the proceedings relating to the merits without first challenging the jurisdiction of the court.

3. The provisions of Chapter II apply to proceedings instituted against a Contracting State in accordance with the present Article.

4. The declaration made under paragraph 1 may be withdrawn by notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect three months after the date of its receipt, but this shall not affect proceedings instituted before the date on which the withdrawal becomes effective.

#### *Article 25*

1. Any Contracting State which has made a declaration under Article 24 shall, in cases not falling within Articles 1 to 13, give effect to a judgment given by a court of another Contracting State which has made a like declaration:

(a) if the conditions prescribed in paragraph 1 (b) of Article 20 have been fulfilled, and

(b) if the court is considered to have jurisdiction in accordance with the following paragraphs.

2. However, the Contracting State is not obliged to give effect to such a judgment:

(a) if there is a ground for refusal as provided for in paragraph 2 of Article 20; or

(b) if the provisions of paragraph 2 of Article 24 have not been observed.

3. Subject to the provisions of paragraph 4, a court of a Contracting State shall be considered to have jurisdiction for the purpose of paragraph 1 (b):

(a) if its jurisdiction is recognised in accordance with the provisions of an agreement to which the State of the forum and the other Contracting State are Parties;

(b) where there is no agreement between the two States concerning the recognition and enforcement of judgments in civil matters, if the courts of the State of the forum would have been entitled to assume jurisdiction had they applied, *mutatis mutandis*, the rules of jurisdiction (other than those mentioned in the Annex to the present Convention) which operate in the State against which the judgment was given. This provision does not apply to questions arising out of contracts.

4. The Contracting States having made the declaration provided for in Article 24 may, by means of a supplementary agreement to this Convention, determine the circumstances in which their courts shall be considered to have jurisdiction for the purposes of paragraph 1 (b) of this Article.

5. If the Contracting State does not give effect to the judgment, the procedure provided for in Article 21 may be used.

#### Article 26

Notwithstanding the provisions of Article 23, a judgment rendered against a Contracting State in proceedings relating to an industrial or commercial activity, in which the State is engaged in the same manner as a private person, may be enforced in the State of the forum against property of the State against which judgment has been given, used exclusively in connection with such an activity, if

(a) both the State of the forum and the State against which the judgment has been given have made declarations under Article 24;

(b) the proceedings which resulted in the judgment fell within Articles 1 to 13 or were instituted in accordance with paragraphs 1 and 2 of Article 24; and

(c) the judgment satisfies the requirements laid down in paragraph 1 (b) of Article 20.

### CHAPTER V. GENERAL PROVISIONS

#### Article 27

1. For the purposes of the present Convention, the expression "Contracting State" shall not include any legal entity of a Contracting State which is distinct therefrom and is capable of suing or being sued, even if that entity has been entrusted with public functions.

2. Proceedings may be instituted against any entity referred to in paragraph 1 before the courts of another Contracting State in the same manner as against a private person; however, the courts may not entertain proceedings in respect of acts performed by the entity in the exercise of sovereign authority (*acta jure imperii*).

3. Proceedings may in any event be instituted against any such entity before those courts if, in corresponding circumstances, the courts would have had jurisdiction if the proceedings had been instituted against a Contracting State.

#### *Article 28*

1. Without prejudice to the provisions of Article 27, the constituent States of a Federal State do not enjoy immunity.

2. However, a Federal State Party to the present Convention, may, by notification addressed to the Secretary General of the Council of Europe, declare that its constituent States may invoke the provisions of the Convention applicable to Contracting States, and have the same obligations.

3. Where a Federal State has made a declaration in accordance with paragraph 2, service of documents on a constituent State of a Federation shall be made on the Ministry of Foreign Affairs of the Federal State, in conformity with Article 16.

4. The Federal State alone is competent to make the declarations, notifications and communications provided for in the present Convention, and the Federal State alone may be party to proceedings pursuant to Article 34.

#### *Article 29*

The present Convention shall not apply to proceedings concerning:

- (a) social security;
- (b) damage or injury in nuclear matters;
- (c) customs duties, taxes or penalties.

#### *Article 30*

The present Convention shall not apply to proceedings in respect of claims relating to the operation of seagoing vessels owned or operated by a Contracting State or to the carriage of cargoes and of passengers by such vessels or to the carriage of cargoes owned by a Contracting State and carried on board merchant vessels.

#### *Article 31*

Nothing in this Convention shall affect any immunities or privileges enjoyed by a Contracting State in respect of anything done or omitted to be done by, or in relation to, its armed forces when on the territory of another Contracting State.

#### *Article 32*

Nothing in the present Convention shall affect privileges and immunities relating to the exercise of the functions of diplomatic missions and consular posts and of persons connected with them.

#### *Article 33*

Nothing in the present Convention shall affect existing or future international agreements in special fields which relate to matters dealt with in the present Convention.

*Article 34*

1. Any dispute which might arise between two or more Contracting States concerning the interpretation or application of the present Convention shall be submitted to the International Court of Justice on the application of one of the parties to the dispute or by special agreement unless the parties agree on a different method of peaceful settlement of the dispute.

2. However, proceedings may not be instituted before the International Court of Justice which relate to:

(a) a dispute concerning a question arising in proceedings instituted against a Contracting State before a court of another Contracting State, before the court has given a judgment which fulfils the condition provided for in paragraph 1 (b) of Article 20;

(b) a dispute concerning a question arising in proceedings instituted before a court of a Contracting State in accordance with paragraph 1 of Article 21, before the court has rendered a final decision in such proceedings.

*Article 35*

1. The present Convention shall apply only to proceedings introduced after its entry into force.

2. When a State has become Party to this Convention after it has entered into force, the Convention shall apply only to proceedings introduced after it has entered into force with respect to that State.

3. Nothing in this Convention shall apply to proceedings arising out of, or judgments based on, acts, omissions or facts prior to the date on which the present Convention is opened for signature.

## CHAPTER VI. FINAL PROVISIONS

*Article 36*

1. The present Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the third instrument of ratification or acceptance.

• 3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall enter into force three months after the date of the deposit of its instrument of ratification or acceptance.

*Article 37*

1. After the entry into force of the present Convention, the Committee of Ministers of the Council of Europe may, by a decision taken by a unanimous vote of the members casting a vote, invite any non-member State to accede thereto.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

3. However, if a State having already acceded to the Convention notifies the Secretary General of the Council of Europe of its objection to the accession of another non-member State, before the entry into force of this accession, the Convention shall not apply to the relations between these two States.

#### *Article 38*

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which the present Convention shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 40 of this Convention.

#### *Article 39*

No reservation is permitted to the present Convention.

#### *Article 40*

1. Any Contracting State may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification. This Convention shall, however, continue to apply to proceedings introduced before the date on which the denunciation takes effect, and to judgments given in such proceedings.

#### *Article 41*

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Convention of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance or accession;
- (c) any date of entry into force of this Convention in accordance with Articles 36 and 37 thereof;
- (d) any notification received in pursuance of the provisions of paragraph 2 of Article 19;
- (e) any communication received in pursuance of the provisions of paragraph 4 of Article 21;
- (f) any notification received in pursuance of the provisions of paragraph 1 of Article 24;
- (g) the withdrawal of any notification made in pursuance of the provisions of paragraph 4 of Article 24;

(h) any notification received in pursuance of the provisions of paragraph 2 of Article 28;

(i) any notification received in pursuance of the provisions of paragraph 3 of Article 37;

(j) any declaration received in pursuance of the provisions of Article 38;

(k) any notification received in pursuance of the provisions of Article 40 and the date on which denunciation takes effect.

#### ANNEX

The grounds of jurisdiction referred to in paragraph 3, sub-paragraph (a), of Article 20, paragraph 2 of Article 24 and paragraph 3, sub-paragraph (b), of Article 25 are the following:

(a) the presence in the territory of the State of the forum of property belonging to the defendant, or the seizure by the plaintiff of property situated there, unless

the action is brought to assert proprietary or possessory rights in that property, or arises from another issue relating to such property; or

the property constitutes the security for a debt which is the subject-matter of the action;

(b) the nationality of the plaintiff;

(c) the domicile, habitual residence or ordinary residence of the plaintiff within the territory of the State of the forum unless the assumption of jurisdiction on such a ground is permitted by way of an exception made on account of the particular subject-matter of a class of contracts;

(d) the fact that the defendant carried on business within the territory of the State of the forum, unless the action arises from that business;

(e) a unilateral specification of the forum by the plaintiff, particularly in an invoice.

A legal person shall be considered to have its domicile or habitual residence where it has its seat, registered office or principal place of business.

#### ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON STATE IMMUNITY

The member States of the Council of Europe, signatory to the present Protocol,

Having taken note of the European Convention on State Immunity—hereinafter referred to as “the Convention”—and in particular Articles 21 and 34 thereof;

Desiring to develop the work of harmonisation in the field covered by the Convention by the addition of provisions concerning a European procedure for the settlement of disputes,

Have agreed as follows:

#### PART I

##### *Article 1*

1. Where a judgment has been given against a State Party to the Convention and that State does not give effect thereto, the party which seeks to invoke the judgment shall be entitled to have determined the question whether effect should be given to the judgment in conformity with Article 20 or Article 25 of the Convention, by instituting proceedings before either:



(a) the competent court of that State in application of Article 21 of the Convention; or

(b) the European Tribunal constituted in conformity with the provisions of Part III of the present Protocol, provided that that State is a Party to the present Protocol and has not made the declaration referred to in Part IV thereof.

The choice between these two possibilities shall be final.

2. If the State intends to institute proceedings before its court in accordance with the provisions of paragraph 1 of Article 21 of the Convention it must give notice of its intention to do so to the party in whose favour the judgment has been given; the State may thereafter institute such proceedings before the European Tribunal. Once this period has elapsed, the party in whose favour the judgment has been given may no longer institute proceedings before the European Tribunal.

3. Save in so far as may be necessary for the application of Articles 20 and 25 of the Convention, the European Tribunal may not review the merits of the judgment.

## PART II

### *Article 2*

1. Any dispute which might arise between two or more States Parties to the present Protocol concerning the interpretation or application of the Convention shall be submitted, on the application of one of the parties to the dispute or by special agreement, to the European Tribunal constituted in conformity with the provisions of Part III of the present Protocol. The States Parties to the present Protocol undertake not to submit such a dispute to a different mode of settlement.

2. If the dispute concerns a question arising in proceedings instituted before a court of one State Party to the Convention against another State Party to the Convention, or a question arising in proceedings instituted before a court of a State Party to the Convention in accordance with Article 21 of the Convention, it may not be referred to the European Tribunal until the court has given a final decision in such proceedings.

3. Proceedings may not be instituted before the European Tribunal which relate to a dispute concerning a judgment which it has already determined or is required to determine by virtue of Part I of this Protocol.

### *Article 3*

Nothing in the present Protocol shall be interpreted as preventing the European Tribunal from determining any dispute which might arise between two or more States Parties to the Convention concerning the interpretation or application thereof and which might be submitted to it by special agreement, even if these States, or any of them, are not Parties to the present Protocol.

## PART III

### *Article 4*

1. There shall be established a European Tribunal in matters of State Immunity to determine cases brought before it in conformity with the provisions of Parts I and II of the present Protocol.

2. The European Tribunal shall consist of the members of the European Court of Human Rights and, in respect of each non-member State of the Council of Europe which has acceded to the present Protocol, a person possessing the qualifications required of members of that Court designated, with the agreement of the Committee of Ministers of the Council of Europe, by the government of that State for a period of nine years.

3. The President of the European Tribunal shall be the President of the European Court of Human Rights.

#### *Article 5*

1. Where proceedings are instituted before the European Tribunal in accordance with the provisions of Part I of the present Protocol, the European Tribunal shall consist of a Chamber composed of seven members. There shall sit as *ex officio* members of the Chamber the member of the European Tribunal who is a national of the State against which the judgment has been given and the member of the European Tribunal who is a national of the State of the forum, or, should there be no such member in one or the other case, a person designated by the government of the State concerned to sit in the capacity of a member of the Chamber. The names of the other five members shall be chosen by lot by the President of the European Tribunal in the presence of the Registrar.

2. Where proceedings are instituted before the European Tribunal in accordance with the provisions of Part II of the present Protocol, the Chamber shall be constituted in the manner provided for in the preceding paragraph. However, there shall sit as *ex officio* members of the Chamber the members of the European Tribunal who are nationals of the States parties to the dispute or, should there be no such member, a person designated by the government of the State concerned to sit in the capacity of a member of the Chamber.

3. Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or of the present Protocol, the Chamber may, at any time, relinquish jurisdiction in favour of the European Tribunal meeting in plenary session. The relinquishment of jurisdiction shall be obligatory where the resolution of such question might have a result inconsistent with a judgment previously delivered by a Chamber or by the European Tribunal meeting in plenary session. The relinquishment of jurisdiction shall be final. Reasons need not be given for the decision to relinquish jurisdiction.

#### *Article 6*

1. The European Tribunal shall decide any disputes as to whether the Tribunal has jurisdiction.

2. The hearings of the European Tribunal shall be public unless the Tribunal in exceptional circumstances decides otherwise.

3. The judgments of the European Tribunal, taken by a majority of the members present, are to be delivered in public session. Reasons shall be given for the judgment of the European Tribunal. If the judgment does not represent in whole or in part the unanimous opinion of the European Tribunal, any member shall be entitled to deliver a separate opinion.

4. The judgments of the European Tribunal shall be final and binding upon the parties.

*Article 7*

1. The European Tribunal shall draw up its own rules and fix its own procedure.
2. The Registry of the European Tribunal shall be provided by the Registrar of the European Court of Human Rights.

*Article 8*

1. The operating costs of the European Tribunal shall be borne by the Council of Europe. States non-members of the Council of Europe having acceded to the present Protocol shall contribute thereto in a manner to be decided by the Committee of Ministers after agreement with these States.
2. The members of the European Tribunal shall receive for each day of duty a compensation to be determined by the Committee of Ministers.

## PART IV

*Article 9*

1. Any State may, by notification addressed to the Secretary General of the Council of Europe at the moment of its signature of the present Protocol, or of the deposit of its instrument of ratification, acceptance or accession thereto, declare that it will only be bound by Parts II to V of the present Protocol.
2. Such a notification may be withdrawn at any time.

## PART V

*Article 10*

1. The present Protocol shall be open to signature by the member States of the Council of Europe which have signed the Convention. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.
2. The present Protocol shall enter into force three months after the date of the deposit of the fifth instrument of ratification or acceptance.
3. In respect of a signatory State ratifying or accepting subsequently, the Protocol shall enter into force three months after the date of the deposit of its instrument of ratification or acceptance.
4. A member State of the Council of Europe may not ratify or accept the present Protocol without having ratified or accepted the Convention.

*Article 11*

1. A State which has acceded to the Convention may accede to the present Protocol after the Protocol has entered into force.
2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

*Article 12*

No reservation is permitted to the present Protocol.

*Article 13*

1. Any Contracting State may, in so far as it is concerned, denounce the present Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification. The Protocol shall, however, continue to apply to proceedings introduced in conformity with the provisions of the Protocol before the date on which such denunciation takes effect.

3. Denunciation of the Convention shall automatically entail denunciation of the present Protocol.

*Article 14*

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to the Convention of:

- (a) any signature of the present Protocol;
- (b) any deposit of an instrument of ratification, acceptance or accession;
- (c) any date of entry into force of the present Protocol in accordance with Articles 10 and 11 thereof;
- (d) any notification received in pursuance of the provisions of Part IV and any withdrawal of any such notification;
- (e) any notification received in pursuance of the provisions of Article 13 and the date on which such denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Protocol.

Done at Basle, this 16th day of May 1972, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

RESOLUTION (72) 2 OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE  
CONCERNING THE EUROPEAN CONVENTION ON STATE IMMUNITY ADOPTED AT THE  
206TH MEETING OF THE MINISTERS' DEPUTIES ON 18 JANUARY 1972

The Committee of Ministers of the Council of Europe,

Having taken note of the text of the European Convention on State Immunity;

Considering that one of the aims of this Convention is to ensure compliance with judgments given against a State,

Recommends the governments of those member States which shall become Parties to this Convention to establish, for the purpose of Article 21 of the Convention, a procedure which shall be as expeditious and simple as possible.

**8. International Convention for the Unification of Certain Rules relating to the Immunity of State-owned Vessels. (Signed at Brussels, April 10th, 1926, and Additional Protocol, signed at Brussels, May 24th, 1934)<sup>51</sup>**

...

*Article 2*

For the enforcement of such liabilities and obligations there shall be the same rules concerning the jurisdiction of tribunals, the same legal actions, and the same procedure as in the case of privately owned merchant vessels and cargoes and of their owners.

*Article 3*

§ 1. The provisions of the two preceding Articles shall not be applicable to ships of war, Government yachts, patrol vessels, hospital ships, auxiliary vessels, supply ships, and other craft owned or operated by a State, and used at the time a cause of action arises exclusively on Governmental and non-commercial service, and such vessels shall not be subject to seizure, attachment or detention by any legal process, nor to judicial proceedings *in rem*.

Nevertheless, claimants shall have the right of taking proceedings in the competent tribunals of the State owning or operating the vessel, without that State being permitted to avail itself of its immunity:

- (1) In case of actions in respect of collision or other accidents of navigation;
- (2) In case of actions in respect of assistance, salvage and general average;
- (3) In case of actions in respect of repairs, supplies, or other contracts relating to the vessel.

§ 2. The same rules shall apply to State-owned cargoes carried on board the vessels hereinabove mentioned.

§ 3. State-owned cargoes carried on board merchant vessels for Governmental and non-commercial purposes shall not be subject to seizure, attachment, or detention, by any legal process, nor to judicial proceedings *in rem*.

Nevertheless, actions in respect of collision and accidents of navigation, assistance and salvage, and general average, and actions on a contract relating to such cargo may be brought before the tribunal having jurisdiction under Article 2.

*Article 4*

States may plead all measures of defense, prescription, and limitation of liability, which are available to private vessels and their owners.

If it becomes necessary to adopt or modify the provisions relative to such means of defence, prescription, and limitation so as to make them applicable to ships of war, or Government vessels coming within the terms of Article 3, a special convention shall be concluded to that effect. In the meantime, any necessary measures may be effected by national legislation in conformity with the spirit and principles of this Convention.

---

<sup>51</sup> League of Nations, *Treaty Series*, vol. CLXXVI, p. 200.

#### Article 5

If in the case of Article 3 there is in the opinion of the tribunal a doubt as to the Governmental and non-commercial character of the vessel or cargo, a certificate signed by the diplomatic representative of the contracting State to which the vessel or cargo belongs, produced through the intercession of the State before whose courts and tribunals the case is pending, shall serve as evidence that the vessel or cargo comes within the terms of Article 3, but only for the purpose of securing a release from seizure, attachment, or detention, that may have been ordered by legal process.

#### Article 6

The provisions of this Convention shall be applied in each contracting State, with the reservation that its benefits may not be extended to non-contracting States and their nationals, and that its application may be conditioned on reciprocity.

On the other hand, nothing will prevent a contracting State from regulating by its own laws the rights accorded to its own nationals in its own courts.

#### Article 7

Each contracting State reserves the right to suspend the application of this Convention in time of war by a declaration notified to the other contracting States, in the sense that in that event neither the vessels owned or operated by it nor the cargoes belonging to it shall be subject to attachment, seizure, or detention by any foreign court of justice, but the claimant will have the right to bring his action before the court competent by virtue of Articles 2 and 3.

#### Article 8

Nothing in this Convention shall affect the rights of the contracting States to take any measures that the rights and duties of neutrality may demand.

#### Article 9

After an interval of not more than two years from the day on which the Convention is signed, the Belgian Government shall place itself in communication with the Governments of the High Contracting Parties which have declared themselves prepared to ratify the Convention, with a view to deciding whether it shall be put into force. The ratifications shall be deposited at Brussels at a date to be fixed by agreement among the said Governments. The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers which take part therein and by the Belgian Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Belgian Government, and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relating to the first deposit of ratifications, of the notifications referred to in the previous paragraph and also of the instruments of ratification accompanying them, shall be immediately sent by the Belgian Government through the diplomatic channel to the Powers who have signed this Convention or who have acceded to it. In the cases contemplated in the preceding paragraph the said Government shall inform them at the same time of the date on which it received the notification.

## PROTOCOL

ADDITIONAL TO THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES CONCERNING THE IMMUNITY OF STATE-OWNED VESSELS, SIGNED AT BRUSSELS ON APRIL 10TH, 1926. SIGNED AT BRUSSELS ON MAY 24TH, 1934

### I

Doubts having arisen as to whether and how far the words "operated by a State" in Article 3 of the Convention apply to, or might be interpreted as applying to, vessels chartered by a State either for a given period or by the voyage, the following declaration is made in order to dispel those doubts:

"Vessels chartered by States either for a given time or by the voyage, provided they are exclusively used on Governmental and non-commercial service, and the cargoes carried by such vessels, shall not be subject to seizure, attachment or detention of any kind, but this immunity shall not prejudicially affect any other rights or remedies open to the parties concerned. A certificate issued by the diplomatic representative of the State concerned, in the manner laid down in Article 5 of the Convention, shall also afford in this case proof of the nature of the service on which the vessel is employed."

### II

As regards the exception provided for in Article 3, paragraph 1, it is understood that the ownership, or the operation of the vessel by the State, at the time of the measures of seizure, attachment or detention, is placed on the same footing as ownership or operation at the time when a cause of action arose.

Accordingly, this Article may be relied on by States in respect of vessels owned or operated by them at the time of seizure, attachment or detention if they are being used exclusively on Governmental and non-commercial service.

### III

It is understood that nothing in the provisions of Article 5 of the Convention shall preclude the Governments concerned from appearing themselves, while complying with the procedure laid down by the national laws, before the court to which the dispute has been referred, and from there producing the certificate provided for in the said Article.

### IV

As the Convention does not in any respect affect the rights or obligations of belligerents and neutrals, Article 7 shall in no way restrict the jurisdiction of duly constituted prize courts.

### V

It is understood that nothing in the provisions of Article 2 of the Convention shall in any way limit or affect the application of national rules of procedure in cases in which the State is a party.

### VI

When the question of the proofs or documents to be produced arises, if in the opinion of the Government concerned such proofs or documents cannot be produced without prejudicing national interests, the said Government may refrain from producing them on the ground of the protection of such national interests.

In faith whereof the undersigned, duly authorized by their Governments, have signed the present Additional Protocol, which shall be deemed to form an integral part of the Convention of April 10th, 1926, to which it refers.

## **9. International Convention on Civil Liability for Oil Pollution Damage, Signed on 29 November 1969<sup>52</sup>**

### *Article X*

1. Any judgment given by a Court with jurisdiction in accordance with Article IX which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any Contracting State, except:

- (a) where the judgment was obtained by fraud; or
- (b) where the defendant was not given reasonable notice and a fair opportunity to present his case.

2. A judgment recognized under paragraph 1 of this Article shall be enforceable in each Contracting State as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be reopened.

### *Article XI*

1. The provisions of this Convention shall not apply to warships or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

2. With respect to ships owned by a Contracting State and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article IX and shall waive all defences based on its status as a sovereign State.

## **10. Protocol on Arbitration Clauses (Signed at Geneva, on 24 September 1923)<sup>53</sup>**

*Registered July 28, 1924, following its entry into force.*

The undersigned, being duly authorised, declare that they accept, on behalf of the countries which they represent, the following provisions:

(1) Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

<sup>52</sup> *International Legal Materials*, vol. 9, p. 45.

<sup>53</sup> League of Nations, *Treaty Series*, vol. XXVII, p. 157.



Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations, in order that the other Contracting States may be so informed.

(2) The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

(3) Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

(4) The tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an Arbitration Agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

## **11. Treaty on International Commercial Navigation Law (Signed at Montevideo on 19 March 1940)<sup>54</sup>**

### **TITLE X. OF VESSELS BELONGING TO THE STATE**

*Article 34.* Vessels which are the property of the contracting States or operated by them, the freight and passengers carried by such vessels, and the cargoes which belong to the States, in so far as concerns claims relative to the operation of the vessels or the transport of passengers and freight, are subject to the laws and rules of responsibility and competency applicable to private vessels, cargo and equipment.

*Article 35.* The rule laid down in the preceding article does not apply to men-of-war, yachts, airplanes, or hospital-, coast guard-, police-, sanitation-, supply-, and public-works vessels; nor to other vessels which are the property of the State, or operated by it, and which are employed, at the time when the claim arises, in some public service outside the field of commerce.

*Article 36.* In the actions or claims to which the preceding article refers, the owner- or outfitter-State cannot avail itself of its special immunities if the case comes under one of the following heads:

1. Actions arising from collisions or other accidents of navigation;

---

<sup>54</sup> *American Journal of International Law*, vol. 37 (Supp. 1943), p. 114.

2. Actions arising from services of assistance or salvage, or relating to general average;

3. Actions based upon repairs, supplies, or contracts on other matters relative to the vessel.

*Article 37.* The vessels to which Article 35 refers cannot in any case be the object of attachment, or of any other judicial proceeding, not authorized by the law of the owner- or outfitter-State.

*Article 38.* The same rules apply to freight belonging to a given State and transported in any of the vessels mentioned in Article 35.

*Article 39.* Freight which belongs to a given State, and which is transported on board commercial vessels in the performance of public services outside the field of commerce, cannot be the object of attachment or arrest or any judicial proceeding.

However, actions based on collision or other accidents of navigation, assistance, salvage, or general average, and likewise actions arising out of contracts relative to the freight, may be brought in conformity with Article 36.

*Article 40.* In every case of doubt as to the character of a public service unrelated to the commercial role of the vessel or its freight, the attestation of the State, signed by its diplomatic representative, shall constitute full proof for the purposes of release from attachment or arrest.

*Article 41.* The privilege of immunity from attachment cannot be invoked for acts performed during the employment of a vessel of the State in a public service outside the field of commerce, if at the time when the judicial proceeding is undertaken, the ownership of the vessel, or its operation, has been transferred to private third parties.

*Article 42.* Vessels of a State which are assigned to commercial service, and private vessels engaged in postal service, cannot be attached by their creditors at the ports of call where they are obliged to perform the services in question.