

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4199 of 1st October, 2015

LEGAL NOTICE NO. 170 OF 2015.

INTERPRETATION AND GENERAL CLAUSES ACT

**CIVIL JURISDICTION AND JUDGMENTS ACT 1993
(AMENDMENT NO.2) REGULATIONS 2015**

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and in order to implement Council Decision of 4 December 2014 on the approval, on behalf of the European Union, of the Hague Convention of 30 June 2005 on Choice of Court Agreements, the Government has made the following Regulations-

Title and commencement.

1. These Regulations may be cited as the Civil Jurisdiction and Judgments Act 1993 (Amendment No.2) Regulations 2015 and come into operation on 1 October 2015.

Amendment to the Civil Jurisdiction and Judgments Act 1993.

2. The Civil Jurisdiction and Judgments Act 1993 is amended in accordance with the provisions of regulations 3 to 18 of these Regulations.

Amendment to section 2.

3. Section 2 is amended as follows-

(a) in subsection (1), by inserting the following after “the Brussels Conventions”-

““the 2005 Hague Convention” means the Convention on Choice of Court Agreements concluded on 30 June 2005 at the Hague;”;

(b) in subsection (3), in the definition of “Contracting State”-

(i) at the end of paragraph (a) delete “and”;

(ii) at the end of paragraph (b) insert “and”;

(iii) after paragraph (b) insert –

“(c) in the application of the provision in relation to the 2005 Hague Convention, a 2005 Hague Convention State”; and

(iv) after “Brussels Contracting State” insert-

““ 2005 Hague Convention State”, in any provision, in the application of that provision in relation to the 2005 Hague Convention, means a State bound by that Convention and for these purposes, Gibraltar shall be deemed a Convention State;”;

(c) in subsection (4)-

(i) paragraph (a), by inserting the following after the words “the 1968 Convention”-

“or Article 4(1) of the 2005 Hague Convention”

(ii) in paragraph (b), by inserting “,6A” after “6”;

(d) in subsection (6), by-

(i) substituting “Any question arising as to whether it is the Regulation, any of the Brussels Conventions, or the Lugano Convention which applies in the circumstances of a particular case shall be determined as follows-” for- “Any question arising as to whether it is the Regulation, any of the Brussels Conventions, the Lugano Convention or the 2005 Hague Convention which applies in the circumstances of a particular case shall be determined as follows-”;

(ii) in paragraph (c) substitute the full-stop for a semi-colon; and

(iii) after paragraph (c) insert-

“(d) in accordance with Article 26 of the 2005 Hague Convention (which determines the relationship between the Brussels Conventions, the Lugano Convention, the Regulation and the 2005 Hague Convention.”.

Amendment to section 4.

4. Section 4 is amended by inserting the following subsections after subsection (4)-

“(5) The 2005 Hague Convention shall have the force of law in Gibraltar and judicial notice shall be taken of it.

(6) For convenience of reference there is set out in Schedule 6A the English text of the 2005 Hague Convention.”.

New section 6A.

5. After section 6 insert-

“Registration and enforcement of judgments under the 2005 Hague Convention.

6A.(1) A judgment which is required to be recognised and enforced under the 2005 Hague Convention in Gibraltar shall be registered in the prescribed manner in the Supreme Court, on the application of any interested party.

(2) A judgment which is required to be recognised and enforced under the 2005 Hague Convention shall be registered without delay on completion of the formalities in Article 13 of the 2005 Hague Convention if the court considers that it meets the condition for recognition in Article 8(3) of the 2005 Hague Convention, without any review of whether a ground for refusal under Article 9 applies.

(3) The party against whom enforcement is sought shall not be entitled to make any submission on the application for registration.

(4) Where a judgment which is required to be recognised and enforced under the 2005 Hague Convention has been registered, the reasonable costs or

expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.

(5) A judgment which is required to be recognised and enforced under the 2005 Hague Convention shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by the registering court and had (where relevant) been entered.

(6) Subsection (5) is subject to section 9 (interest on registered judgments) and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under the 2005 Hague Convention may be enforced.”.

New section 8A.

6. After section 8, insert-

“Appeals in relation to registration of judgments under the 2005 Hague Convention.

8A. (1) A decision on the application for registration of a judgment required to be recognised and enforced under the 2005 Hague Convention may be appealed against by either party.

(2) The appeal referred to in subsection (1) lies to the Court of Appeal in accordance with the Court of Appeal Act.

(3) The Court of Appeal shall refuse or revoke registration only if-

- (a) the condition for recognition in Article 8(3) of the 2005 Hague Convention is not met;
- (b) the ground for postponement or refusal of recognition in Article 8(4) of the 2005 Hague Convention applies; or
- (c) one or more of the grounds specified in Article 9 of the 2005 Hague Convention apply.”.

Amendment to section 9.

7. Section 9 is amended in subsections (1) and (5) after “6” by inserting “, 6A”.

New section 11A.

8. After section 11, insert-

“Proof and admissibility of certain judgments and related documents for the purposes of the 2005 Hague Convention.

11A. (1) For the purposes of the 2005 Hague Convention-

- (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a 2005 Hague Convention State other than Gibraltar shall without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) a certificate issued by the court of the 2005 Hague Convention State of origin, in the form recommended for use under the 2005 Hague Convention and published by the Hague Conference on Private International Law, as referred to in Article 13(3) of the 2005 Hague Convention, shall be evidence as to whether the judgment has effect or is enforceable in the 2005 Hague Convention State of origin.

(2) A document purporting to be a copy of a judgment given by any such court as is mentioned in subsection (1)(a) is duly authenticated for the purposes of this section if it purports-

- (a) to bear the seal of that court; or
- (b) to be certified by any person in their capacity as judge or officer of that court to be a true copy of a judgment given by that court.

(3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.”.

Amendment to section 12.

9. Section 12 is amended by substituting “, the Lugano Convention or the 2005 Hague Convention” for “or the Lugano Convention”.

Amendment to section 15.

10. In section 15, insert “and Article 26 of the 2005 Hague Convention” after “(relationship between the Convention is question and other conventions to which the Contracting States are or may become parties)”.

Amendment to section 16.

11. In section 16(1)(c)-

(a) substitute the “full-stop” for a “semi-colon” and insert the word “and” after the “semicolon”; and

(b) insert after paragraph “(c)”-

“(d) This subsection shall also apply to the 2005 Hague Convention.”.

Amendment to section 17.

12. Section 17 is amended as follows-

(a) in subsections (1)(a) and (3)(A)(a) after “Lugano Contracting State” insert “or a 2005 Hague Convention State”;

(b) substitute subsection (1)(b) for –

“(b) they are or will be proceedings whose subject-matter is either within the scope of the Regulation, as determined by Article 1 of the Regulation, within scope of the Lugano Convention as determined by Article 1 of the Lugano Convention or within scope of the 2005 Hague Convention as determined by Articles 1 and 2 of the 2005 Hague Convention (whether or not the Regulation, the Lugano Convention or the 2005 Hague Convention has effect in relation to the proceedings).”;

(c) in subsection (3A)(b)-

- (i) substitute “or” for “,”; and
- (ii) after “ the Lugano Convention” insert “or the 2005 Hague Convention as determined by Articles 1 and 2 of the 2005 Hague Convention”.

Amendment to section 21.

13. In subsection 21(4)(a), after “under” insert “the 2005 Hague Convention,”.

Amendment to section 22.

14. In subsection 22(2), after “the Regulation” insert “or the 2005 Hague Convention”.

Amendment to section 32.

15. Substitute subsection 32(1) for-

“(1) Rules of court may make provision for regulating the procedure to be followed in any court in connection with any provision of this Act, the Lugano Convention, the Brussels Conventions, the Regulation, Regulation 2201/2003 or the 2005 Hague Convention.”.

Amendment to section 33.

16. In section 33, after “the Lugano Convention” insert “or the 2005 Hague Convention”.

New Section 38B.

17. After section 38A insert-

“Application of provisions of the Civil Jurisdiction and Judgments Act 1993 to judicial settlements.

38B.(1) In this Act “judicial settlements” means judicial settlements referred to in Article 12 of the 2005 Hague Convention.

(2) Sections 6A, 8A and 11A apply to judicial settlements as if they were judgments.

(3) Section 32 applies to judicial settlements as if they were judgments to which the 2005 Hague Convention applies.”.

New Schedule 6A.

18. After Schedule 6, insert-

“SCHEDULE 6A.

Section 4(6)

CONVENTION ON CHOICE OF COURT AGREEMENTS

(Concluded on 30 June 2005)

The States Parties to the present Convention,
Desiring to promote international trade and investment through enhanced judicial co-operation, Believing that such co-operation can be enhanced by uniform rules on jurisdiction and on recognition and enforcement of foreign judgments in civil or commercial matters,
Believing that such enhanced co-operation requires in particular an international legal regime that provides certainty and ensures the effectiveness of exclusive choice of court agreements between parties to commercial transactions and that governs the recognition and enforcement of judgments resulting from proceedings based on such agreements,
Have resolved to conclude this Convention and have agreed upon the following provisions –

CHAPTER I – SCOPE AND DEFINITIONS

Article 1
Scope

- (1) This Convention shall apply in international cases to exclusive choice of court agreements concluded in civil or commercial matters.
- (2) For the purposes of Chapter II, a case is international unless the parties are resident in the same Contracting State and the relationship of the

parties and all other elements relevant to the dispute, regardless of the location of the chosen court, are connected only with that State.

(3) For the purposes of Chapter III, a case is international where recognition or enforcement of a foreign judgment is sought.

Article 2

Exclusions from scope

(1) This Convention shall not apply to exclusive choice of court agreements –

- a)* to which a natural person acting primarily for personal, family or household purposes (a consumer) is a party;
- b)* relating to contracts of employment, including collective agreements.

(2) This Convention shall not apply to the following matters –

- a)* the status and legal capacity of natural persons;
- b)* maintenance obligations;
- c)* other family law matters, including matrimonial property regimes and other rights or obligations arising out of marriage or similar relationships;
- d)* wills and succession;
- e)* insolvency, composition and analogous matters;
- f)* the carriage of passengers and goods;
- g)* marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage;
- h)* anti-trust (competition) matters;
- i)* liability for nuclear damage;
- j)* claims for personal injury brought by or on behalf of natural persons;
- k)* tort or delict claims for damage to tangible property that do not arise from a contractual relationship;
- l)* rights *in rem* in immovable property, and tenancies of immovable property;
- m)* the validity, nullity, or dissolution of legal persons, and the validity of decisions of their organs;
- n)* the validity of intellectual property rights other than copyright and related rights;
- o)* infringement of intellectual property rights other than copyright and related rights, except where infringement proceedings are brought for breach of a contract between the

parties relating to such rights, or could have been brought for breach of that contract;

- p)* the validity of entries in public registers.
- (3) Notwithstanding paragraph 2, proceedings are not excluded from the scope of this Convention where a matter excluded under that paragraph arises merely as a preliminary question and not as an object of the proceedings. In particular, the mere fact that a matter excluded under paragraph 2 arises by way of defence does not exclude proceedings from the Convention, if that matter is not an object of the proceedings.
- (4) This Convention shall not apply to arbitration and related proceedings.
- (5) Proceedings are not excluded from the scope of this Convention by the mere fact that a State, including a government, a governmental agency or any person acting for a State, is a party thereto.
- (6) Nothing in this Convention shall affect privileges and immunities of States or of international organisations, in respect of themselves and of their property.

Article 3

Exclusive choice of court agreements

For the purposes of this Convention-

- a)* “exclusive choice of court agreement” means an agreement concluded by two or more parties that meets the requirements of paragraph *c)* and designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, the courts of one Contracting State or one or more specific courts of one Contracting State to the exclusion of the jurisdiction of any other courts;
- b)* a choice of court agreement which designates the courts of one Contracting State or one or more specific courts of one Contracting State shall be deemed to be exclusive unless the parties have expressly provided otherwise;
- c)* an exclusive choice of court agreement must be concluded or documented –
- i)* in writing; or

- i) by any other means of communication which renders information accessible so as to be usable for subsequent reference;
- d) an exclusive choice of court agreement that forms part of a contract shall be treated as an agreement independent of the other terms of the contract. The validity of the exclusive choice of court agreement cannot be contested solely on the ground that the contract is not valid.

Article 4
Other definitions

(1) In this Convention, “judgment” means any decision on the merits given by a court, whatever it may be called, including a decree or order, and a determination of costs or expenses by the court (including an officer of the court), provided that the determination relates to a decision on the merits which may be recognised or enforced under this Convention. An interim measure of protection is not a judgment.

(2) For the purposes of this Convention, an entity or person other than a natural person shall be considered to be resident in the State-

- a) where it has its statutory seat;
- b) under whose law it was incorporated or formed;
- c) where it has its central administration; or
- d) where it has its principal place of business.

CHAPTER II- JURISDICTION

Article 5
Jurisdiction on the chosen court

(1) The court or courts of a Contracting State designated in an exclusive choice of court agreement shall have jurisdiction to decide a dispute to which the agreement applies, unless the agreement is null and void under the law of that State.

(2) A court that has jurisdiction under paragraph 1 shall not decline to exercise jurisdiction on the ground that the dispute should be decided in a court of another State.

(3) The preceding paragraphs shall not affect rules-

- a)* on jurisdiction related to subject matter or to the value of the claim;
- b)* on the internal allocation of jurisdiction among the courts of a Contracting State.

However, where the chosen court has discretion as to whether to transfer a case, due consideration should be given to the choice of the parties.

Article 6
Obligations of a court not chosen

A court of a Contracting State other than that of the chosen court shall suspend or dismiss proceedings to which an exclusive choice of court agreement applies unless-

- a)* the agreement is null and void under the law of the State of the chosen court;
- b)* a party lacked the capacity to conclude the agreement under the law of the State of the court seised;
- c)* giving effect to the agreement would lead to a manifest injustice or would be manifestly contrary to the public policy of the State of the court seised;
- d)* for exceptional reasons beyond the control of the parties, the agreement cannot reasonably be performed; or
- e)* the chosen court has decided not to hear the case.

Article 7
Interim measures of protection

Interim measures of protection are not governed by this Convention. This Convention neither requires nor precludes the grant, refusal or termination of interim measures of protection by a court of a Contracting State and does not affect whether or not a party may request or a court should grant, refuse or terminate such measures.

CHAPTER III- RECOGNITION AND ENFORCEMENT

Article 8
Recognition and enforcement

(1) A judgment given by a court of a Contracting State designated in an exclusive choice of court agreement shall be recognised and enforced in other Contracting States in accordance with this Chapter. Recognition or enforcement may be refused only on the grounds specified in this Convention.

(2) Without prejudice to such review as is necessary for the application of the provisions of this Chapter, there shall be no review of the merits of the judgment given by the court of origin. The court addressed shall be bound by the findings of fact on which the court of origin based its jurisdiction, unless the judgment was given by default.

(3) A judgment shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.

(4) Recognition or enforcement may be postponed or refused if the judgment is the subject of review in the State of origin or if the time limit for seeking ordinary review has not expired. A refusal does not prevent a subsequent application for recognition and enforcement of the judgment.

(5) This Article shall also apply to a judgment given by a court of a Contracting State pursuant to a transfer of the case from the chosen court in that Contracting State as permitted by Article 5, paragraph 3. However, where the chosen court had discretion as to whether to transfer the case to another court, recognition or enforcement of the judgment may be refused against a party who objected to the transfer in a timely manner in the State of origin.

Article 9

Refusal of recognition or enforcement

Recognition or enforcement may be refused if-

- a) the agreement was null and void under the law of the State of the chosen court, unless the chosen court has determined that the agreement is valid;
- b) a party lacked the capacity to conclude the agreement under the law of the requested State;
- c) the document which instituted the proceedings or an equivalent document, including the essential elements of the claim,
 - i) was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence, unless the defendant entered an

- appearance and presented his case without contesting notification in the court of origin, provided that the law of the State of origin permitted notification to be contested; or
- ii)* was notified to the defendant in the requested State in a manner that is incompatible with fundamental principles of the requested State concerning service of documents;
 - d)* the judgment was obtained by fraud in connection with a matter of procedure;
 - e)* recognition or enforcement would be manifestly incompatible with the public policy of the requested State, including situations where the specific proceedings leading to the judgment were incompatible with fundamental principles of procedural fairness of that State;
 - f)* the judgment is inconsistent with a judgment given in the requested State in a dispute between the same parties; or
 - g)* the judgment is inconsistent with an earlier judgment given in another State between the same parties on the same cause of action, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State.

Article 10
Preliminary questions

(1) Where a matter excluded under Article 2, paragraph 2, or under Article 21, arose as a preliminary question, the ruling on that question shall not be recognised or enforced under this Convention.

(2) Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment was based on a ruling on a matter excluded under Article 2, paragraph 2.

(3) However, in the case of a ruling on the validity of an intellectual property right other than copyright or a related right, recognition or enforcement of a judgment may be refused or postponed under the preceding paragraph only where-

- a)* that ruling is inconsistent with a judgment or a decision of a competent authority on that matter given in the State under the law of which the intellectual property right arose; or

- b)* proceedings concerning the validity of the intellectual property right are pending in that State.
- (4) Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment was based on a ruling on a matter excluded pursuant to a declaration made by the requested State under Article 21.

Article 11
Damages

- (1) Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment awards damages, including exemplary or punitive damages, that do not compensate a party for actual loss or harm suffered.
- (2) The court addressed shall take into account whether and to what extent the damages awarded by the court of origin serve to cover costs and expenses relating to the proceedings.

Article 12
Judicial settlements (transactions judiciaires)

Judicial settlements (*transactions judiciaires*) which a court of a Contracting State designated in an exclusive choice of court agreement has approved, or which have been concluded before that court in the course of proceedings, and which are enforceable in the same manner as a judgment in the State of origin, shall be enforced under this Convention in the same manner as a judgment.

Article 13
Documents to be produced

- (1) The party seeking recognition or applying for enforcement shall produce-
- a)* a complete and certified copy of the judgment;
 - b)* the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence;
 - c)* if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party;

- d)* any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin;
 - e)* in the case referred to in Article 12, a certificate of a court of the State of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the State of origin.
- (2) If the terms of the judgment do not permit the court addressed to verify whether the conditions of this Chapter have been complied with, that court may require any necessary documents.
- (3) An application for recognition or enforcement may be accompanied by a document, issued by a court (including an officer of the court) of the State of origin, in the form recommended and published by the Hague Conference on Private International Law.
- (4) If the documents referred to in this Article are not in an official language of the requested State, they shall be accompanied by a certified translation into an official language, unless the law of the requested State provides otherwise.

Article 14
Procedure

The procedure for recognition, declaration of enforceability or registration for enforcement, and the enforcement of the judgment, are governed by the law of the requested State unless this Convention provides otherwise. The court addressed shall act expeditiously.

Article 15
Severability

Recognition or enforcement of a severable part of a judgment shall be granted where recognition or enforcement of that part is applied for, or only part of the judgment is capable of being recognised or enforced under this Convention.

CHAPTER IV- GENERAL CLAUSES

Article 16
Transitional provisions

- (1) This Convention shall apply to exclusive choice of court agreements concluded after its entry into force for the State of the chosen court.
- (2) This Convention shall not apply to proceedings instituted before its entry into force for the State of the court seised.

Article 17

Contracts of insurance and reinsurance

- (1) Proceedings under a contract of insurance or reinsurance are not excluded from the scope of this Convention on the ground that the contract of insurance or reinsurance relates to a matter to which this Convention does not apply.
- (2) Recognition and enforcement of a judgment in respect of liability under the terms of a contract of insurance or reinsurance may not be limited or refused on the ground that the liability under that contract includes liability to indemnify the insured or reinsured in respect of-
 - a) a matter to which this Convention does not apply; or
 - b) an award of damages to which Article 11 might apply.

Article 18

No legislation

All documents forwarded or delivered under this Convention shall be exempt from legalisation or any analogous formality, including an Apostille.

Article 19

Declarations limiting jurisdiction

A State may declare that its courts may refuse to determine disputes to which an exclusive choice of court agreement applies if, except for the location of the chosen court, there is no connection between that State and the parties or the dispute.

Article 20

Declarations limiting recognition and enforcement

A State may declare that its courts may refuse to recognise or enforce a judgment given by a court of another Contracting State if the parties were resident in the requested State, and the relationship of the parties and all

other elements relevant to the dispute, other than the location of the chosen court, were connected only with the requested State.

Article 21

Declarations with respect to specific matters

- (1) Where a State has a strong interest in not applying this Convention to a specific matter, that State may declare that it will not apply the Convention to that matter. The State making such a declaration shall ensure that the declaration is no broader than necessary and that the specific matter excluded is clearly and precisely defined.
- (2) With regard to that matter, the Convention shall not apply-
 - a) in the Contracting State that made the declaration;
 - b) in other Contracting States, where an exclusive choice of court agreement designates the courts, or one or more specific courts, of the State that made the declaration.

Article 22

Reciprocal declarations on non-exclusive choice of court agreements

- (1) A Contracting State may declare that its courts will recognise and enforce judgments given by courts of other Contracting States designated in a choice of court agreement concluded by two or more parties that meets the requirements of Article 3, paragraph *c*), and designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, a court or courts of one or more Contracting States (a non-exclusive choice of court agreement).
- (2) Where recognition or enforcement of a judgment given in a Contracting State that has made such a declaration is sought in another Contracting State that has made such a declaration, the judgment shall be recognised and enforced under this Convention, if-
 - a) the court of origin was designated in a non-exclusive choice of court agreement;
 - b) there exists neither a judgment given by any other court before which proceedings could be brought in accordance with the non-exclusive choice of court agreement, nor a proceeding pending between the same parties in any other such court on the same cause of action; and
 - c) the court of origin was the court first seised.

Article 23
Uniform interpretation

In the interpretation of this Convention, regard shall be had to its international character and to the need to promote uniformity in its application.

Article 24
Review of operation of the Convention

The Secretary General of the Hague Conference on Private International Law shall at regular intervals make arrangements for-

- a) review of the operation of this Convention, including any declarations; and
- b) consideration of whether any amendments to this Convention are desirable.

Article 25
Non-unified legal systems

(1) In relation to a Contracting State in which two or more systems of law apply in different territorial units with regard to any matter dealt with in this Convention-

- a) any reference to the law or procedure of a State shall be construed as referring, where appropriate, to the law or procedure in force in the relevant territorial unit;
- b) any reference to residence in a State shall be construed as referring, where appropriate, to residence in the relevant territorial unit;
- c) any reference to the court or courts of a State shall be construed as referring, where appropriate, to the court or courts in the relevant territorial unit;
- d) any reference to a connection with a State shall be construed as referring, where appropriate, to a connection with the relevant territorial unit.

(2) Notwithstanding the preceding paragraph, a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which involve solely such different territorial units.

(3) A court in a territorial unit of a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to recognise or enforce a judgment from another Contracting State solely

because the judgment has been recognised or enforced in another territorial unit of the same Contracting State under this Convention.

(4) This Article shall not apply to a Regional Economic Integration Organisation.

Article 26

Relationship with other legal instruments

(1) This Convention shall be interpreted so far as possible to be compatible with other treaties in force for Contracting States, whether concluded before or after this Convention.

(2) This Convention shall not affect the application by a Contracting State of a treaty, whether concluded before or after this Convention, in cases where none of the parties is resident in a Contracting State that is not a Party to the treaty.

(3) This Convention shall not affect the application by a Contracting State of a treaty that was concluded before this Convention entered into force for that Contracting State, if applying this Convention would be inconsistent with the obligations of that Contracting State to any non-Contracting State. This paragraph shall also apply to treaties that revise or replace a treaty concluded before this Convention entered into force for that Contracting State, except to the extent that the revision or replacement creates new inconsistencies with this Convention.

(4) This Convention shall not affect the application by a Contracting State of a treaty, whether concluded before or after this Convention, for the purposes of obtaining recognition or enforcement of a judgment given by a court of a Contracting State that is also a Party to that treaty. However, the judgment shall not be recognised or enforced to a lesser extent than under this Convention.

(5) This Convention shall not affect the application by a Contracting State of a treaty which, in relation to a specific matter, governs jurisdiction or the recognition or enforcement of judgments, even if concluded after this Convention and even if all States concerned are Parties to this Convention. This paragraph shall apply only if the Contracting State has made a declaration in respect of the treaty under this paragraph. In the case of such a declaration, other Contracting States shall not be obliged to apply this Convention to that specific matter to the extent of any inconsistency, where an exclusive choice of court agreement designates the courts, or one or more specific courts, of the Contracting State that made the declaration.

(6) This Convention shall not affect the application of the rules of a Regional Economic Integration Organisation that is a Party to this Convention, whether adopted before or after this Convention-

- a) where none of the parties is resident in a Contracting State that is not a Member State of the Regional Economic Integration Organisation;
- b) as concerns the recognition or enforcement of judgments as between Member States of the Regional Economic Integration Organisation.

CHAPTER V- FINAL CLAUSES

Article 27

Signature, ratification, acceptance, approval or accession

- (1) This Convention is open for signature by all States.
- (2) This Convention is subject to ratification, acceptance or approval by the signatory States.
- (3) This Convention is open for accession by all States.
- (4) Instruments of ratification, acceptance, approval or accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 28

Declarations with respect to non-unified legal systems

- (1) If a State has two or more territorial units in which different systems of law apply in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that the Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
- (2) A declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.
- (3) If a State makes no declaration under this Article, the Convention shall extend to all territorial units of that State.
- (4) This Article shall not apply to a Regional Economic Integration Organisation.

Article 29

Regional Economic Integration Organisations

- (1) A Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by this Convention may similarly sign, accept, approve or

accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that the Organisation has competence over matters governed by this Convention.

2) The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, notify the depositary in writing of the matters governed by this Convention in respect of which Member States. The Organisation shall promptly notify the depositary in writing of any changes to its competence as specified in the most recent notice given under this paragraph.

(3) For the purposes of the entry into force of this Convention, any instrument deposited by a Regional Economic Integration Organisation shall not be counted unless the Regional Economic Integration Organisation declares in accordance with Article 30 that its Member States will not be Parties to this Convention.

(4) Any reference to a "Contracting State" or "State" in this Convention shall apply equally, where appropriate, to a Regional Economic Integration Organisation that is a Party to it.

Article 30

Accession by a Regional Economic Integration Organisation without its Member States

(1) At the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation may declare that it exercises competence over all the matters governed by this Convention and that its Member States will not be Parties to this Convention but shall be bound by virtue of the signature, acceptance, approval or accession of the Organisation.

(2) In the event that a declaration is made by a Regional Economic Integration Organisation in accordance with paragraph 1, any reference to a "Contracting State" or "State" in this Convention shall apply equally, where appropriate, to the Member States of the Organisation.

Article 31

Entry into force

(1) This Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the second instrument of ratification, acceptance, approval or accession referred to in Article 27.

(2) Thereafter this Convention shall enter into force-

- a) for each State or Regional Economic Integration Organisation subsequently ratifying, accepting, approving or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;
- b) for a territorial unit to which this Convention has been extended in accordance with Article 28, paragraph 1, on the first day of the month following the expiration of three months after the notification of the declaration referred to in that Article.

Article 32 Declarations

- (1) Declarations referred to in Articles 19, 20, 21, 22 and 26 may be made upon signature, ratification, acceptance, approval or accession or at any time thereafter, and may be modified or withdrawn at any time.
- (2) Declarations, modifications and withdrawals shall be notified to the depositary.
- (3) A declaration made at the time of signature, ratification, acceptance, approval or accession shall take effect simultaneously with the entry into force of this Convention for the State concerned.
- (4) A declaration made at a subsequent time, and any modification or withdrawal of a declaration, shall take effect on the first day of the month following the expiration of three months after the date on which the notification is received by the depositary.
- (5) A declaration under Articles 19, 20, 21 and 26 shall not apply to exclusive choice of court agreements concluded before it takes effect.

Article 33 Denunciation

- (1) This Convention may be denounced by notification in writing to the depositary. The denunciation may be limited to certain territorial units of a non-unified legal system to which this Convention applies.
- (2) The denunciation shall take effect on the first day of the month following the expiration of twelve months after the date on which the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take effect upon the expiration of such longer period after the date on which the notification is received by the depositary.

Article 34
Notifications by the depositary

The depositary shall notify the Members of the Hague Conference on Private International Law, and other States and Regional Economic Integration Organisations which have signed, ratified, accepted, approved or acceded in accordance with Articles 27, 29 and 30 of the following-

- a) the signatures, ratifications, acceptances, approvals and accessions referred to in Articles 27, 29 and 30;
- b) the date on which this Convention enters into force in accordance with Article 31;
- c) the notifications, declarations, modifications and withdrawals of declarations referred to in Articles 19, 20, 21, 22, 26, 28, 29 and 30;
- d) the denunciations referred to in Article 33.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on 30 June 2005, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the Member States of the Hague Conference on Private International Law as of the date of its Twentieth Session and to each State which participated in that Session.”.

Dated 1st October, 2015.

G H LICUDI QC,
for the Government.

Printed by the Gibraltar Chronicle Printing Limited
Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £1.10