

CONVENTION
ON JURISDICTION AND THE ENFORCEMENT
OF CIVIL AND COMMERCIAL JUDGMENTS
(signed on 27 September 1968)

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Conventions concluded by the Member States of the
European Communities pursuant to EEC Treaty Article 200

PREAMBLE

The High Contracting Parties to the Treaty establishing the European Economic Community,

Being desirous of implementing the provisions of Article 220 of the said Treaty by virtue of which they undertook to simplify the formalities governing the mutual recognition and enforcement of judgments,

Being anxious to strengthen in the Community the legal protection of persons therein established,

Whereas it is necessary for this purpose to determine the international competence of their courts, to facilitate recognition and to introduce a procedure for expediting the enforcement of judgments, "public" documents, and compositions recorded by courts,

Have decided to conclude the present Convention and have appointed to this end as plenipotentiaries:

His Majesty the King of the Belgians:

M. Pierre Harmel, Minister for Foreign Affairs;

The President of the Federal Republic of Germany:

M. Willy Brandt, Vice-Chancellor, Minister for Foreign Affairs;

The President of the French Republic:

M. Michel Debré, Minister for Foreign Affairs;

The President of the Italian Republic:

M. Giuseppe Medici, Minister for Foreign Affairs;

His Royal Highness the Grand-Duke of Luxembourg:

M. Pierre Grégoire, Minister for Foreign Affairs;

Her Majesty the Queen of the Netherlands:

M. J.M.A.H. Luns, Minister for Foreign Affairs;

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

HAVE AGREED AS FOLLOWS:

TITLE I

SCOPE

Article 1

This Convention shall apply in civil and commercial matters whatever the nature of the jurisdiction.

It shall not apply to:

- (1) The status or capacity of natural persons, marriage *régimes*, wills or inheritances;
- (2) Bankruptcies, compositions or similar proceedings;
- (3) Social security;
- (4) Arbitration.

TITLE II

JURISDICTION

Section 1

GENERAL PROVISIONS

Article 2

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

Persons not possessing the nationality of the State in which they are domiciled shall be subject to the rules of jurisdiction applicable to the nationals of that State.

Article 3

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

In particular the following may not be invoked against them:

- (i) In Belgium: Article 15 of the *Code civil*, or the provisions of Articles 52, 52bis and 53 of the Law of 25 March 1876 on jurisdiction;
- (ii) In the Federal Republic of Germany: Article 23 of the *Zivilprozessordnung*;
- (iii) In France: Articles 14 and 15 of the *Code civil*;
- (iv) In Italy: Articles 2 and 4, Nos. 1 and 2, of the *Codice di procedura civile*;
- (v) In Luxembourg: Articles 14 and 15 of the *Code civil*;
- (vi) In the Netherlands: Article 126, third paragraph, and Article 127 of the *Wetboek van Burgerlijke Rechtsvordering*.

Article 4

If the defendant is not domiciled in a Contracting State, jurisdiction is governed in each Contracting State by its own law, subject to the application of the provisions of Article 16.

Any person, whatever his nationality, domiciled in a Contracting State may, like the nationals of that State, invoke, in that State, against the defendant the rules of jurisdiction there in force, notably those specified in Article 3, second paragraph.

Section 2

SPECIAL JURISDICTION

Article 5

Any defendant domiciled in a Contracting State may, in another Contracting State, be sued in:

- (1) The court of the place where the obligation has been or is to be fulfilled, in matters of contract;
- (2) The court of the place where the claimant for maintenance has his domicile or usual residence, in matters of compulsory maintenance;

- (3) The court of the place where the tortious act occurred, in matters of tort or quasi-tort;
- (4) The court of prosecution, in the case of a claim for damages or a suit for restitution arising from a tort, provided the court has jurisdiction over civil claims;
- (5) In disputes concerning the way a firm's branch, agency or other establishment conducts its business, the court of the locality in which such branch, agency or other establishment is situated.

Article 6

The same defendant may also be sued:

- (1) Where there is more than one defendant, before the court of the domicile of any one of them;
- (2) The court with which the main suit was filed, in the case of an impleader or an application for third-party intervention, unless the impleader or application was made only in order to remove the defendant from the court competent to deal with him;
- (3) The court with which the original claim was filed, in the case of a counterclaim arising from the contract or act on which the original claim was based.

Section 3

JURISDICTION IN MATTERS OF INSURANCE

Article 7

In matters of insurance, jurisdiction shall be determined by this section, without prejudice to the provisions of Articles 4 and 5(5).

Article 8

Any insurer domiciled on the territory of a Contracting State may be sued in the courts of that State or in the courts of the place where the insured person is domiciled, if in another Contracting State, or before the courts of the Contracting State, where one of the insurers has his domicile, if there is more than one defendant insurer.

If the law of the court before which the parties appear so allows, the insurer may also, in a Contracting State other than that of his domicile, be sued in the court under the jurisdiction of which the party which served as intermediary for the insurance contract has his domicile, provided that such domicile is mentioned in the policy or in the policy proposal.

An insurer not domiciled in a Contracting State who possesses a branch or an agency in one of the Contracting States shall be considered for the purpose of disputes concerning the conducting of the business of such branch or agency as having his domicile in that Contracting State.

Article 9

In the case of liability insurance or real property insurance, the insurer may in addition be sued in the court of the place where the tortious act took place. The same applies if the insurance covers both real and movable property in the same policy and the same contingency affects both.

Article 10

In liability insurance, the insurer may also be sued in the court with which the injured party has filed his suit against the insured person if the law of the said court so permits.

The provisions of Articles 7, 8 and 9 shall apply if the injured party sues the insurer directly, where this is possible.

If the law relating to the direct suit provides that the policy-holder or the insured may be brought into the action, the same court shall have jurisdiction over him.

Article 11

Subject to the provisions of Article 10, third paragraph, a suit by the insurer may be filed only with the courts of the Contracting State in which the defendant is domiciled, whether he is the policy-holder, the insured person or the beneficiary.

The provisions of this section shall be without prejudice to the right to file a counterclaim with the same court as the original claim filed in accordance with this section.

Article 12

The provisions of this section may be waived only by agreements:

- (1) Subsequent to the occurrence of the dispute, or
- (2) Allowing the policy-holder, the insured person or the beneficiary to seize courts other than those indicated in this section, or
- (3) Which, concluded between a policy-holder and an insurer both having their domicile in the same Contracting State, have the effect, even when the tortious act has taken place abroad, of assigning jurisdiction to the courts of that Contracting State, unless its law forbids such agreements.

Section 4

JURISDICTION IN MATTERS OF CREDIT SALES
AND HIRE PURCHASE

Article 13

In matters of credit sales or hire purchase of tangible personal property, jurisdiction is determined by this section without prejudice to the provisions of Article 4 and Article 5(5).

Article 14

Any vendor or lender domiciled in a Contracting State may be sued either before the courts of that State or before the courts of the Contracting State in which the purchaser or hirer is domiciled.

Suits brought against the purchaser by a vendor or against the hirer by the lender may be filed only with the courts of the State in which the defendant is domiciled.

The provisions cannot prejudice the right to file a counterclaim with the same court as the original claim in accordance with this section.

Article 15

The provisions of this section may be waived only by agreements:

- (1) Subsequent to the occurrence of the dispute, or
- (2) Allowing the buyer or hirer to seize courts other than those indicated in this section, or
- (3) Which, concluded between the purchaser and the vendor or between the hirer and the lender both having their domicile or usual residence in the same Contracting State, assigns jurisdiction to the courts of that State, unless its law forbids such agreements.

Section 5

SOLE JURISDICTION

Article 16

Only the following shall be competent, regardless of domicile:

- (1) In matters involving rights *in rem* in real property or concerning the leasing of real property, the courts of the Contracting State in which the real property is situated;
- (2) In matters of validity, nullity or winding up of companies or other bodies corporate having their registered office in a Contracting State, or of decisions by their organs, the courts of that State;
- (3) In matters of validity of entries in public registers, the courts of the Contracting State on the territory of which the registers are kept;
- (4) In matters of registration or validity of patents, trade marks, designs and models, and other similar rights requiring filing or registration, the courts of the Contracting State in which filing or registration has been applied for, has been carried out or is assumed to have been carried out under the terms of an international convention;
- (5) In matters of enforcement of judgments, the courts of the Contracting State in the place of enforcement.

Section 6

AGREEMENTS ON JURISDICTION

Article 17

If, by an agreement in writing or verbal agreement confirmed in writing, when at least one of the parties is domiciled on the territory of a Contracting State, the parties have designated a court or the courts of a Contracting State as competent to settle disputes which have arisen or may arise in a specific legal relationship, only the designated court or the courts of that State shall have jurisdiction.

Agreements assigning jurisdiction are null and void if they contravene the provisions of Articles 12 and 15 or if the courts whose jurisdiction they seek to exclude have sole jurisdiction by virtue of Article 16.

If the agreement assigning jurisdiction has been entered into in favour of only one of the parties, that party shall retain the right of appeal to any other court having jurisdiction by virtue of this Convention.

Article 18

Apart from cases where his competence derives from other provisions of this Convention, the judge of a Contracting State before whom the defendant enters an appearance shall be competent, save where the appearance is for the purpose of challenging the competence of the court or if another court has sole jurisdiction by virtue of Article 16.

Section 7

EXAMINATION OF COMPETENCE AND ADMISSIBILITY

Article 19

Any judge of a Contracting State applied to on the main issue of a suit which another Contracting State has sole competence to deal with under Article 16, shall declare *ex officio* that he lacks competence.

Article 20

When the defendant domiciled on the territory of a Contracting State is sued before a court of another Contracting State and fails to enter an appearance, the judge shall declare *ex officio* that he lacks competence unless he is competent under this Convention.

The judge must stay judgment until it is established that the said defendant has been able to receive the initial summons in time to defend himself, or that every effort has been made to this end.

The provisions of the foregoing paragraph shall be replaced by those of Article 15 of the Hague Convention of 15 November 1965 concerning the serving in a foreign country of judicial or non-judicial documents in civil or commercial matters if the summons has had to be served pursuant to the above-mentioned Convention.

Section 8

LIS PENDENS AND INTERRELATIONSHIP

Article 21

Where actions with the same object and concerning the same issue are brought by the same parties before the courts of different Contracting States, the court applied to second must automatically declare itself incompetent in favour of the court applied to first.

The court obliged to yield jurisdiction may delay its decision if the jurisdiction of the other court has been challenged.

Article 22

When interrelated actions are brought before the courts of different Contracting States and are pendent in the court of first resort, the court applied to second may delay its decision.

The latter court may also yield jurisdiction of the request of one of the parties provided that the law governing it permits the joinder of interrelated cases and that the court first applied to has jurisdiction over both actions.

Interrelated actions, within the meaning of this Article, shall be those so closely interrelated that there is an advantage in preparing and judging them simultaneously to avoid settlements which might be incompatible if they were judged separately.

Article 23

Where actions come within the exclusive jurisdiction of a number of courts, jurisdiction shall be yielded to the court applied to first.

Section 9

PROVISIONAL AND PROTECTIVE MEASURES

Article 24

Application may be made for provisional or protective measures under the law of a Contracting State to the legal authorities of that State, even if a court in another Contracting State has jurisdiction on the merits under this Convention.

TITLE III

RECOGNITION AND ENFORCEMENT

Article 25

Within the meaning of this Convention, a "judgment" shall be any judgment rendered by a court or tribunal of a Contracting State, whatever such judgment may be called, such as a decree, decision, or an order or writ of execution, including the determination of costs by the clerk of the court.

Section 1

RECOGNITION

Article 26

Judgments rendered in a Contracting State shall be recognized in the other Contracting States without a special procedure being required.

In the event of dispute, all interested parties invoking recognition on the main issue may have it declared in accordance with the procedures specified in Sections 2 and 3 of this Title that the judgment must be recognized.

If recognition is invoked incidentally before a court of a Contracting State, that court shall have jurisdiction in the matter.

Article 27

Recognition shall, however, not be accorded:

- (1) If it is contrary to "public policy" in the State applied to;
- (2) If the defaulting defendant was not served with the summons correctly and in good time for him to arrange for his defence;
- (3) If the judgment is incompatible with a judgment rendered in a dispute between the same parties in the State applied to;

(4) If the court of the State of origin has, in rendering its judgment in settlement of a matter concerning the status or capacity of natural persons, marriage *régimes*, wills and inheritances, contravened a rule of the private international law of the State applied to, unless the effect of its judgment is the same as if it had applied the provisions of the private international law of the State applied to.

Article 28

Neither shall judgments be recognized if the provisions of Sections 3, 4 and 5 of Title II have been contravened, or in the case specified in Article 59.

When the jurisdictions referred to in the foregoing paragraph are examined, the authority applied to shall be bound by the *de facto* verifications on which the court of the State of origin based its jurisdiction.

Without prejudice to the provisions of the first paragraph, the jurisdiction of the court of the State of origin may not be reviewed; the rules relating to jurisdiction do not apply to the matters of "public policy" referred to in Article 27 (1).

Article 29

In no circumstances may the foreign judgment be reviewed as to the merits.

Article 30

Any court of a Contracting State before which recognition of a judgment rendered in another Contracting State is invoked may stay the judgment if an ordinary appeal has been lodged.

Section 2

ENFORCEMENT

Article 31

All judgments rendered in a Contracting State which are enforceable in that State shall be enforced in another Contracting State when the writ of execution has been issued at the request of any interested party.

Article 32

The application shall be submitted:

- (I) In Belgium, to the *tribunal de première instance* or *rechtbank van eerste aanleg*;
- (II) In the Federal Republic of Germany, to the presiding judge of a chamber of a *Landgericht*;
- (III) In France, to the presiding judge of the *tribunal de grande instance*;
- (IV) In Italy, to the *corte d'appello*;
- (V) In Luxembourg, to the presiding judge of the *tribunal d'arrondissement*;
- (VI) In the Netherlands, to the presiding judge of the *arrondissementsrechtbank*.

The competent court shall be a court in the area in which is domiciled the party against which enforcement is applied for. If the party is not domiciled in the State applied to, jurisdiction shall be determined by the place of enforcement.

Article 33

The procedure for filing the application shall be determined by the law of the State of enforcement.

The applicant must elect domicile within the area jurisdiction of the court applied to. However, if the law of the State of enforcement does not provide for election of domicile, the applicant shall nominate a representative *ad litem*.

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

Article 34

The court applied to shall render judgment at an early date, and the party against which an enforcement is applied for shall at this stage in the proceedings not be entitled to submit comments.

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

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

Article 35

The judgment rendered as a result of the application shall immediately be brought to the knowledge of the applicant by the clerk of the court in accordance with the procedure specified by the law of the State of enforcement.

Article 36

If enforcement is authorized, the party against which enforcement is applied for may appeal against the judgment within a period of one month of its notification.

If that party is domiciled in a Contracting State other than that in which the judgment authorizing the enforcement was rendered, the aforementioned period shall be two months and shall run from the date when the judgment was served on him in person or at his domicile. There shall be no extension of the period on the grounds of distance.

Article 37

The appeal shall be lodged in accordance with the rules governing trial proceedings:

- (I) In Belgium, with the *tribunal de première instance* or *rechtbank van eerste aanleg*;
- (II) In the Federal Republic of Germany, with the *Oberlandesgericht*;
- (III) In France, with the *cour d'appel*;
- (IV) In Italy, with the *corte d'appello*;
- (V) In Luxembourg, with the *cour supérieure de justice* as dealing with civil appeals;
- (VI) In the Netherlands, with the *arrondissementsrechtbank*.

Any judgment rendered in response to an appeal may be contested only by an appeal for reversal (*pourvoi en cassation*) and, in the Federal Republic of Germany, by a complaint on a point of law (*Rechtsbeschwerde*).

Article 38

Any court with which the appeal is lodged may, at the request of the party appealing, stay judgment if an ordinary appeal has been lodged against the foreign judgment in the State of origin or if the period for appealing has not expired; in the latter case, the court may allow time for appealing.

The court may also make enforcement subject to the provision of a guarantee determined by itself.

Article 39

During the period for appeal specified in Article 36, and until judgment has been rendered on the appeal, action concerning the property of the party against whom enforcement is applied for shall not exceed preservation measures.

The judgment granting enforcement shall include authorization to proceed to such measures.

Article 40

If the application is refused, the applicant may appeal:

- (I) In Belgium, to the *cour d'appel* or *hof van beroep*;

- (II) In the Federal Republic of Germany, to the *Oberlandesgericht*;
- (III) In France, to the *cour d'appel*;
- (IV) In Italy, to the *corte d'appello*;
- (V) In Luxembourg, to the *cour supérieure de justice* as dealing with civil appeals;
- (VI) In the Netherlands, to the *gerechtshof*.

The party against which enforcement is applied for shall be summoned to appear before the court judging the appeal. If he fails to enter an appearance, the provisions of Article 20, second and third paragraphs, shall be applicable even when the party is not domiciled in any of the Contracting States.

Article 41

The judgment rendered in response to the appeal specified in Article 40 may be challenged only by an appeal for reversal (*pourvoi en cassation*) and, in the Federal Republic of Germany, by a complaint on a point of law (*Rechtsbeschwerde*).

Article 42

When the foreign judgment has ruled on a number of heads of the application and when enforcement cannot be authorized for all of them, the court shall grant enforcement for one or more of them.

The applicant may request partial enforcement.

Article 43

Foreign judgments imposing a pecuniary penalty shall be enforceable in the State applied to only if the amount of the penalty has been finally determined by the courts of the State of origin.

Article 44

An applicant receiving legal aid in the State where the judgment was rendered shall also qualify for legal aid, without further examination, in the proceedings specified in Articles 32 to 35.

Article 45

No guarantee or deposit, however designated, may be required, either on the grounds of foreign origin or on the grounds of lack of domicile or residence in the country, from the party applying for enforcement in a Contracting State of a judgment rendered in another Contracting State.

Section 3

COMMON PROVISIONS

Article 46

The party relying on recognition or applying for enforcement of a judgment must produce:

- (1) A copy of the judgment meeting the conditions necessary for authenticity;
- (2) In the case of a judgment by default, the original or a certified true copy of the document establishing that the summons has been served on the defaulting party.

Article 47

The party applying for enforcement must also produce:

- (1) All documents for the purpose of establishing that, in accordance with the law of the State of origin, the judgment is enforceable and has been served;
- (2) If appropriate, a document bearing witness that the applicant is receiving legal aid in the State of origin.

Article 48

If the documents specified in Article 46 (2) and Article 47 (2) are not produced, the court may allow time for producing them or accept equivalent documents or, if it deems fit, dispense with them.

The document shall be translated if the court so requires; the translation shall be certified by a person authorized as a translator in one of the Contracting States.

Article 49

Neither the documents referred to in Articles 46, 47 and 48, second paragraph, nor, if issued, a proxy *ad litem*, shall require authentication or similar formality.

TITLE IV

"PUBLIC" DOCUMENTS AND COURT SETTLEMENTS

Article 50

All "public" documents received and enforceable in a Contracting State shall on request have the writ of execution affixed to them in another Contracting State in accordance with the procedures specified in Article 31 *et seq.* The application may be rejected only if the execution of the "public" document is contrary to "public policy" in the State applied to.

The document produced must satisfy the conditions necessary for its authenticity in the State of origin.

The provisions of Section 3 of Title III shall apply as far as may be necessary.

Article 51

Settlements made before the judge in the course of an action which are enforceable in the State of origin shall be enforceable in the State applied to under the same conditions as "public" documents.

TITLE V

GENERAL PROVISIONS

Article 52

In order to determine whether a party has his domicile in the Contracting State before whose courts action is brought, the judge shall apply domestic law.

When a party is not domiciled in the State before whose courts action is brought, the judge shall apply the law of that State to determine whether he is domiciled in another Contracting State.

However, in order to determine the domicile of a party, his domestic law shall be applied, if, in accordance with this, his domicile depends on that of another person or the seat of an authority.

Article 53

The registered offices of companies and bodies corporate shall be the same as the domicile for purposes of applying this Convention. However, in order to determine the registered office, the judge before whom action is brought shall apply the rules of his private international law.

TITLE VI

TRANSITIONAL PROVISIONS

Article 54

The provisions of this Convention shall apply only to legal proceedings which have been brought and to "public" documents which have been approved after its entry into force.

Notwithstanding the foregoing, judgments rendered after the date when this Convention comes into force, as a result of proceedings brought before that date, shall be recognized and enforced in accordance with the provisions of Title III if the rules of jurisdiction applied are in accordance with those specified either by Title II or by a convention which was in force between the State of origin and the State applied to when the proceedings were brought.

TITLE VII

RELATIONSHIP TO OTHER CONVENTIONS

Article 55

Without prejudice to the provisions of Article 54, second paragraph, and of Article 56, this Convention shall supersede the following Conventions concluded between two or more of the States party to it:

- (i) The Convention between Belgium and France on jurisdiction, the validity and enforcement of judgments, arbitration awards and "public" documents, signed in Paris on 8 July 1899;
- (ii) The Convention between Belgium and the Netherlands concerning the territorial jurisdiction of courts, bankruptcy, validity and enforcement of judgments, arbitration awards and "public" documents, signed in Brussels on 28 March 1925;
- (iii) The Convention between France and Italy concerning the enforcement of judgments in civil and commercial matters, signed in Rome on 3 June 1930;
- (iv) The Convention between Germany and Italy concerning the recognition and enforcement of judgments in civil and commercial matters, signed in Rome on 9 March 1936;
- (v) The Convention between the Federal Republic of Germany and the Kingdom of Belgium concerning the mutual recognition and enforcement of judgments, arbitral awards and "public" documents, in civil and commercial matters, signed in Bonn on 30 June 1958;

(vi) The Convention between the Kingdom of the Netherlands and the Italian Republic concerning the recognition and enforcement of judgments in civil and commercial matters, signed in Rome on 17 April 1959;

(vii) The Convention between the Kingdom of Belgium and the Italian Republic concerning the recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed in Rome on 6 April 1962;

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

and inasmuch as it is in force:

(ix) The Treaty between Belgium, the Netherlands and Luxembourg concerning jurisdiction of courts, bankruptcy, validity and enforcement of judgments, arbitration awards and "public" documents, signed in Brussels on 24 November 1961.

Article 56

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

They shall continue to have effect in respect of judgments rendered and instruments drawn up before the entry into force of this Convention.

Article 57

This Convention shall be without prejudice to any conventions to which the Contracting States are or will be parties, governing jurisdiction, recognition and enforcement of judgments in particular matters.

Article 58

The provisions of this Convention shall be without prejudice to the rights granted to Swiss nationals by the Convention concluded on 15 June 1869 between France and Switzerland on jurisdiction of courts and the enforcement of judgments in civil matters.

Article 59

This Convention shall not prevent a Contracting State from giving undertakings to a non-member state, under a Convention on the recognition and enforcement of judgments, from refusing to recognize a judgment rendered, notably in another Contracting State, against a defendant having his domicile or usual residence on the territory of the non-member state when, in a case covered by Article 4, it has been possible to base the judgment only on a jurisdiction specified in Article 3, second paragraph.

TITLE VIII

FINAL PROVISIONS

Article 60

This Convention shall apply to the European territories of the Contracting States, to the French Overseas Departments and to the French Overseas Territories.

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Convention or at any later time, by notifying the Secretary-General of the Council of the European Communities, that this Convention shall be applicable to Surinam and the Netherlands Antilles. In the absence of such declaration with respect to the Netherlands Antilles, proceedings opened on the European territory of the Realm as a result of an appeal for reversal of the judgments of courts in the Netherlands Antilles shall be deemed to be proceedings opened before the said courts.

Article 61

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

Article 62

This Convention shall come into force on the first day of the third month following deposit of the instrument of ratification by the last signatory State to complete this formality.

Article 63

The Contracting States shall recognize that all States becoming members of the European Economic Community shall have the obligation to agree that this Convention shall be taken as a basis for the negotiations necessary to ensure the implementation of Article 220, last sub-paragraph, of the Treaty establishing the European Economic Community, in relations between the Contracting States and the acceding State.

A special convention may be made between the Contracting States on the one hand and the acceding State on the other hand to ensure the necessary adjustments.

Article 64

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

- (i) The deposit of each instrument of ratification;
- (ii) The date of entry into force of this Convention;
- (iii) Any declarations received in pursuance of Article 60, second paragraph;
- (iv) Any declaration received in pursuance of Article IV of the Protocol;
- (v) Any communications made in pursuance of Article VI of the Protocol.

Article 65

The Protocol annexed to this Convention by mutual agreement of the Contracting States shall form an integral part of the Convention.

Article 66

This Convention shall be concluded for an indefinite period.

Article 67

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

Article 68

This Convention, drawn up in one original only, in German, French, Italian and Dutch, the four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall supply a certified true copy to the Government of each signatory State.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures to this Convention.

Done at Brussels, on the twenty-seventh day of September, nineteen hundred and sixty-eight.

For His Majesty the King of the Belgians,

Pierre Harmel.

For the President of the Federal Republic of Germany,

Willy Brandt.

For the President of the French Republic,

Michel Debré.

For the President of the Italian Republic,

Giuseppe Medici.

For his Royal Highness the Grand-Duke of Luxembourg,

Pierre Grégoire.

For Her Majesty the Queen of the Netherlands,

J.M.A.H. Luns.

PROTOCOL

The High Contracting Parties have agreed on the following provisions, which are annexed to the Convention:

Article I

All persons domiciled in Luxembourg who are brought before a court of another Contracting State in pursuance of Article 5 (1) may refuse the jurisdiction of that court. The court shall automatically declare that it lacks jurisdiction if the defendant does not enter an appearance.

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

Article II

Without prejudice to more favourable national provisions, persons domiciled in a Contracting State who are being prosecuted for involuntary infringement in the criminal courts of another Contracting State of which they are not nationals may have themselves defended by persons competent for the purpose even if they do not appear in person.

However, the court before which the case is brought may order appearance in person; failure to appear may mean that the judgment rendered in the civil suit without the person concerned having had the opportunity to arrange for his defence will not be recognized or enforced in the other Contracting States.

Article III

No tax, duty or fee proportional to the value of the lawsuit shall be collected in the State applied to on the occasion of the proceedings to obtain approval for the writ of execution.

Article IV

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

Unless the State of destination objects by declaration to the Secretary-General of the Council of the European Communities, such instruments may also be sent directly by the law officials of the State in which the instruments have been drawn up to the law officials of the State in which the addressee is resident. In this case, the law official of the State of origin shall send a copy of the instrument to the law official of the State applied to who is competent to forward it to the addressee. The instrument shall be forwarded in the forms specified by the law of the State applied to. It shall be confirmed by a certificate sent directly to the law official of the State of origin.

Article V

The courts specified in Article 6 (2) and Article 10 as having jurisdiction over impleaders or requests for third-party intervention cannot be invoked in the Federal Republic of Germany. In that State, all persons domiciled on the territory of another Contracting State may be summoned before the courts in pursuance of Articles 68, 72, 73 and 74 of the *Zivilprozessordnung* concerning *litis denunciatio*.

Judgments rendered in the other Contracting States by virtue of Article 6 (2) and Article 10 shall be recognized and enforced in the Federal Republic of Germany in accordance with Title III. Any effects produced with respect to third parties, in pursuance of Articles 68, 72, 73 and 74 of the *Zivilprozessordnung*, by judgments rendered in that State shall also be recognized in the other Contracting States.

Article VI

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of any legal provisions amending either the articles of their laws mentioned in the Convention or changing the courts specified in Title III, Section 2, of the Convention.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures to this Protocol.

Done at Brussels, on the twenty-seventh day of September, nineteen hundred and sixty-eight.

For His Majesty the King of the Belgians,

Pierre Harmel.

For the President of the Federal Republic of Germany,

Willy Brandt.

For the President of the French Republic,

Michel Debré.

For the President of the Italian Republic,

Giuseppe Medici.

For His Royal Highness the Grand-Duke of Luxembourg,

Pierre Grégoire.

For Her Majesty the Queen of the Netherlands,

J.M.A.H. Luns.

JOINT DECLARATION

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

On signing the Convention on jurisdiction and the enforcement of civil and commercial judgments,

Being desirous of ensuring that the Convention is applied as effectively as possible,

Wishing to prevent differences of interpretation of the Convention from impairing its unity,

Aware that claims and disclaimers of jurisdiction may arise in the application of the Convention,

Declare themselves ready:

1. To study these matters and in particular to examine the possibility of assigning certain powers to the Court of Justice of the European Communities and, if necessary, to negotiate an agreement to this effect;
2. To arrange meetings at regular intervals between their representatives.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures to this Joint Declaration.

Done at Brussels, on the twenty-seventh day of September, nineteen hundred and sixty-eight.

Pierre Harmel

Willy Brandt

Michel Debré

Giuseppe Medici

Pierre Grégoire

J.M.A.H. Luns