



**TREATY SERIES 2007
N° 158**

**Convention on the accession of the Kingdom of Denmark, Ireland
and the United Kingdom of Great Britain and Northern Ireland to
the Convention on jurisdiction and the enforcement of civil and
commercial matters and to the Protocol on its interpretation by the
Court of Justice**

Done at Luxembourg on 9 October 1978

**Notification of completion of requirements for entry into force on 31
March 1988**

Entered into force on 1 June 1988

Presented to Dáil Éireann by the Minister for Foreign Affairs

**CONVENTION ON THE ACCESSION OF THE KINGDOM OF
DENMARK, IRELAND AND THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND TO THE CONVENTION ON
JURISDICTION AND THE ENFORCEMENT OF CIVIL AND
COMMERCIAL MATTERS AND TO THE PROTOCOL ON ITS
INTERPRETATION BY THE COURT OF JUSTICE**

Preamble

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

Considering that the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, in becoming members of the Community, undertook to accede to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on the interpretation of that Convention by the Court of Justice, and to this end undertook to enter into negotiations with the original Member States of the Community in order to make the necessary adjustments thereto,

HAVE DECIDED to conclude this Convention and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Renaat VAN ELSLANDE,
Minister for Justice;

HER MAJESTY THE QUEEN OF DENMARK:

Nathalie LIND,
Minister for Justice;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Dr Hans-Jochen VOGEL,
Federal Minister for Justice;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Alain PEYREFITTE,
Keeper of the Seals,
Minister for Justice;

THE PRESIDENT OF IRELAND:

Gerard COLLINS,

Minister for Justice;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Paolo BONIFACIO,
Minister for Justice;

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Robert KRIEPS,
Minister of Education and Justice;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Prof. Mr J. DE RUITER,
Minister for Justice;

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND:

The Right Honourable the Lord ELWYN-JONES, CH,
Lord High Chancellor of Great Britain;

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

Have agreed as follows:

TITLE I **GENERAL PROVISIONS**

Article 1

The Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland hereby accede to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Brussels on 27 September 1968 (hereinafter called "the 1968 Convention"), and to the Protocol on its interpretation by the Court of Justice, signed at Luxembourg on 3 June 1971 (hereinafter called "the 1971 Protocol").

Article 2

The adjustments to the 1968 Convention and to the 1971 Protocol are set out in Titles II to IV of this Convention.

TITLE II
ADJUSTMENTS TO THE 1968 CONVENTION

Article 3

The following shall be added to the first paragraph of Article 1 of the 1968 Convention:

"It shall not extend, in particular, to revenue, customs or administrative matters."

Article 4

The following shall be substituted for the second paragraph of Article 3 of the 1968 Convention:

"In particular the following provisions shall not be applicable as against them: - in Belgium: Article 15 of the civil code (Code civil - Burgerlijk Wetboek) and Article 638 of the judicial code (Code judiciaire - Gerechtelijk Wetboek);

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

- in the Federal Republic of Germany: Article 23 of the code of civil procedure (Zivilprozeßordnung);

- in France : Articles 14 and 15 of the civil code (Code civil);

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

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

- in Luxembourg : Articles 14 and 15 of the civil code (Code civil);

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

- in the United Kingdom : the rules which enable jurisdiction to be founded on:
(a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom ; or

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

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

Article 5

1. The following shall be substituted for the French text of Article 5 (1) of the 1968 Convention:

"1. en matière contractuelle, devant le tribunal du lieu où l'obligation qui sert de base à la demande a été ou doit être exécutée;"

2. The following shall be substituted for the Dutch text of Article 5 (1) of the 1968 Convention:

"1. ten aanzien van verbintenissen uit overeenkomst : voor het gerecht van de plaats, waar de verbintenis, die aan de eis ten grondslag ligt, is uitgevoerd of moet worden uitgevoerd;"

3. The following shall be substituted for Article 5 (2) of the 1968 Convention:

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

4. The following shall be added to Article 5 of the 1968 Convention:

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

7. as regards a dispute concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, in the court under the authority of which the cargo or freight in question (a) has been arrested to secure such payment,

or

(b) could have been so arrested, but bail or other security has been given; provided that this provision shall apply only if it is claimed that the defendant has an interest in the cargo or freight or had such an interest at the time of salvage."

Article 6

The following Article shall be added to Title II, Section 2, of the 1968 Convention:

"Article 6a

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

Article 7

The following shall be substituted for Article 8 of the 1968 Convention:

"Article 8

An insurer domiciled in a Contracting State may be sued: 1. in the courts of the State where he is domiciled, or

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

or

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

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

Article 8

The following shall be substituted for Article 12 of the 1968 Convention:

"Article 12

The provisions of this Section may be departed from only by an agreement on jurisdiction: 1. which is entered into after the dispute has arisen, or

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

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

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

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

Article 9

The following Article shall be added to Section 3 of Title II of the 1968 Convention:

"Article 12a

The following are the risks referred to in Article 12 (5): 1. Any loss of or damage to (a) sea-going ships, installations situated offshore or on the high seas, or aircraft, arising from perils which relate to their use for commercial purposes,

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

2. Any liability, other than for bodily injury to passengers or loss of or damage to their baggage, (a) arising out of the use or operation of ships, installations or aircraft as referred to in 1 (a) above in so far as the law of the Contracting State in which such aircraft are registered does not prohibit agreements on jurisdiction regarding insurance of such risks,
(b) for loss or damage caused by goods in transit as described in 1 (b) above;
3. Any financial loss connected with the use or operation of ships, installations or aircraft as referred to in 1 (a) above, in particular loss of freight or charter-hire;
4. Any risk or interest connected with any of those referred to in 1 to 3 above."

Article 10

The following shall be substituted for Section 4 of Title II of the 1968 Convention:

"Section 4

Jurisdiction over consumer contracts

Article 13

In proceedings concerning a contract concluded by a person for a purpose which can be regarded as being outside his trade or profession, hereinafter called "the consumer", jurisdiction shall be determined by this section, without prejudice to the provisions of Articles 4 and 5 (5), if it is: 1. a contract for the sale of goods on instalment credit terms, or

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

3. any other contract for the supply of goods or a contract for the supply of services, and (a) in the State of the consumer's domicile the conclusion of the contract was preceded by a specific invitation addressed to him or by advertising, and

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

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

This section shall not apply to contracts of transport.

Article 14

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

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

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

Article 15

The provisions of this Section may be departed from only by an agreement: 1. which is entered into after the dispute has arisen, or

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

Article 11

The following shall be substituted for Article 17 of the 1968 Convention.

"Article 17

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

The court or courts of a Contracting State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

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

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

Article 12

The second paragraph of Article 20 of the 1968 Convention shall be replaced by the following:

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

Article 13

1. Article 27 (2) of the 1968 Convention shall be replaced by the following:

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

2. The following shall be added to Article 27 of the 1968 Convention:

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

Article 14

The following paragraph shall be added to Article 30 of the 1968 Convention:

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

Article 15

The following paragraph shall be added to Article 31 of the 1968 Convention:

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

Article 16

The following shall be substituted for the first paragraph of Article 32 of the 1968 Convention:

"The application shall be submitted: - in Belgium, to the tribunal de première instance or rechtbank van eerste aanleg,

- in Denmark, to the underret,
- in the Federal Republic of Germany, to the presiding judge of a chamber of the Landgericht,
- in France, to the presiding judge of the tribunal de grande instance,
- in Ireland, to the High Court,
- in Italy, to the corte d'appello,
- in Luxembourg, to the presiding judge of the tribunal d'arrondissement,
- in the Netherlands, to the presiding judge of the arrondissementsrechtbank,
- in the United Kingdom: 1. in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State;

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

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

Article 17

The following shall be substituted for Article 37 of the 1968 Convention:

"Article 37

An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters: - in Belgium, with the tribunal de première instance or rechtbank van eerste aanleg,

- in Denmark, with the landsret,

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

- in France, with the cour d'appel,

- in Ireland, with the High Court,

- in Italy, with the corte d'appello,

- in Luxembourg, with the Cour supérieure de Justice sitting as a court of civil appeal,

- in the Netherlands, with the arrondissementsrechtbank,

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

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

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

The judgment given on the appeal may be contested only: - in Belgium, France, Italy, Luxembourg and the Netherlands, by an appeal in cassation,

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

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

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

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

Article 18

The following paragraph shall be added after the first paragraph of Article 38 of the 1968 Convention:

"Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in the State in which it was given shall be treated as an ordinary appeal for the purposes of the first paragraph."

Article 19

The following shall be substituted for the first paragraph of Article 40 of the 1968 Convention:

"If the application for enforcement is refused, the applicant may appeal: - in Belgium, to the cour d'appel or hof van beroep,

- in Denmark, to the landsret,

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

- in France, to the cour d'appel,

- in Ireland, to the High Court,

- in Italy, to the corte d'appello,

- in Luxembourg, to the Cour supérieure de Justice sitting as a court of civil appeal,

- in the Netherlands, to the gerechtshof,

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

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

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

Article 20

The following shall be substituted for Article 41 of the 1968 Convention:

"Article 41

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

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

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

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

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

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

Article 21

The following shall be substituted for Article 44 of the 1968 Convention:

"Article 44

An applicant who, in the State in which the judgment was given, has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in the procedures provided for in Articles 32 to 35, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

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

Article 22

Article 46 (2) of the 1968 Convention is replaced by the following:

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

Article 23

The following paragraph shall be added to Article 53 of the 1968 Convention:

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

Article 24

The following shall be inserted at the appropriate places in chronological order in the list of Conventions set out in Article 55 of the 1968 Convention: - the Convention between the United Kingdom and the French Republic providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Paris on 18 January 1934,

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

- the convention between the United Kingdom and the Republic of Italy for the reciprocal reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Bonn on 14 July 1960,

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

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

Article 25

1. The following shall be substituted for Article 57 of the 1968 Convention:

"Article 57

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

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

With a view to its uniform interpretation, paragraph 1 of Article 57 shall be applied in the following manner: (a) the 1968 Convention as amended shall not prevent a court of a Contracting State which is a party to a convention on a particular matter from assuming jurisdiction in accordance with that Convention, even where the defendant is domiciled in another Contracting State which is not a party to that Convention. The court shall, in any event, apply Article 20 of the 1968 Convention as amended;

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

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

Article 26

The following paragraph shall be added to Article 59 of the 1968 Convention:

"However, a Contracting State may not assume an obligation towards a third State not to recognize a judgment given in another Contracting State by a court basing its jurisdiction on the presence within that State of property belonging to the defendant, or the seizure by the plaintiff of property situated there: 1. if the action is brought to assert or declare proprietary or possessory rights in that property, seeks to obtain authority to dispose of it, or arises from another issue relating to such property, or,

if the property constitutes the security for a debt which is the subject-matter of the action."

Article 27

The following shall be substituted for Article 60 of the 1968 Convention:

"Article 60

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

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Convention or at any later time, by notifying the Secretary-General of the

Council of the European Communities, that this Convention shall be applicable to the Netherlands Antilles. In the absence of such declaration, proceedings taking place in the European territory of the Kingdom as a result of an appeal in cassation from the judgment of a court in the Netherlands Antilles shall be deemed to be proceedings taking place in the latter court.

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

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

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

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

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

Article 28

The following shall be substituted for Article 64 (c) of the 1968 Convention:

"(c). any declaration received pursuant to Article 60;".

TITLE III

ADJUSTMENTS TO THE PROTOCOL ANNEXED TO THE 1968 CONVENTION

Article 29

The following Articles shall be added to the Protocol annexed to the 1968 Convention:

"Article Va

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

Article Vb

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

Article Vc

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

Article Vd

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

TITLE IV

ADJUSTMENTS TO THE 1971 PROTOCOL

Article 30

The following paragraph shall be added to Article 1 of the 1971 Protocol:

"The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the Convention of 27 September 1968 and to this Protocol."

Article 31

The following shall be substituted for Article 2 (1) of the 1971 Protocol:

- "1. - in Belgium : la Cour de Cassation - het Hof van Cassatie and le Conseil d'Etat - de Raad van State,
- in Denmark : højesteret,
- in the Federal Republic of Germany : die obersten Gerichtshöfe des Bundes,
- in France : la Cour de Cassation and le Conseil d'Etat,
- in Ireland : the Supreme Court,
- in Italy : la Corte Suprema di Cassazione,
- in Luxembourg : la Cour supérieure de Justice when sitting as Cour de Cassation,
- in the Netherlands : de Hoge Raad,

- in the United Kingdom : the House of Lords and courts to which application has been made under the second paragraph of Article 37 or under Article 41 of the Convention;"

Article 32

The following shall be substituted for Article 6 of the 1971 Protocol:

"Article 6

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

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Protocol or at any later time, by notifying the Secretary-General of the Council of the European Communities, that this Protocol shall be applicable to the Netherlands Antilles.

Notwithstanding the first paragraph, this Protocol shall not apply to: 1. the Faroe Islands, unless the Kingdom of Denmark makes a declaration to the contrary, any European territory situated outside the United Kingdom for the international relations of which the United Kingdom is responsible, unless the United Kingdom makes a declaration to the contrary in respect of any such territory.

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

Article 33

The following shall be substituted for Article 10 (d) of the 1971 Protocol:

"(d) any declaration received pursuant to Article 6."

TITLE V

TRANSITIONAL PROVISIONS

Article 34

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

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

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

or with provisions of a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

Article 35

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

Article 36

For a period of three years from the entry into force of the 1968 Convention for the Kingdom of Denmark and Ireland respectively, jurisdiction in maritime matters shall be determined in these States not only in accordance with the provisions of that Convention but also in accordance with the provisions of paragraphs 1 to 6 following. However, upon the entry into force of the International Convention relating to the arrest of sea-going ships, signed at Brussels on 10 May 1952, for one of these States, these provisions shall cease to have effect for that State. 1. A person who is domiciled in a Contracting State may be sued in the courts of one of the States mentioned above in respect of a maritime claim if the ship to which the claim relates or any other ship owned by him has been arrested by judicial process within the territory of the latter State to secure the claim, or could have been so arrested there but bail or other security has been given, and either:

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

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

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

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

- (e) the claim is for salvage ; or

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

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

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

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

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

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

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

(c) salvage;

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

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

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

(g) general average;

(h) bottomry;

(i) towage;

(j) pilotage;

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

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

(m) wages of masters, officers or crew;

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

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

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

(q) the mortgage or hypothecation of any ship.

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

TITLE VI FINAL PROVISIONS

Article 37

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

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

Article 38

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 39

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

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

Article 40

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

- (a) the deposit of each instrument of ratification,

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

Article 41

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

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have affixed their signatures below this Convention.

Done at Luxembourg on the ninth day of October in the year one thousand nine hundred and seventy-eight.