

N° 3960.

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**GRANDE-BRETAGNE  
ET IRLANDE DU NORD  
ET FRANCE**

Convention pour l'exécution réciproque des jugements en matière civile et commerciale, avec annexe et protocole. Signés à Paris, le 18 janvier 1934.

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**GREAT BRITAIN  
AND NORTHERN IRELAND  
AND FRANCE**

Convention providing for the Reciprocal Enforcement of Judgments in Civil and Commercial Matters, with Annex and Protocol. Signed at Paris, January 18th, 1934.

No. 3960. — CONVENTION<sup>1</sup> BETWEEN GREAT BRITAIN AND NORTHERN IRELAND AND FRANCE PROVIDING FOR THE RECIPROCAL ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS. | SIGNED AT PARIS, JANUARY 18TH, 1934.

*English and French official texts communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Convention took place August 26th, 1936.*

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, and THE PRESIDENT OF THE FRENCH REPUBLIC, being desirous to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters, have resolved to conclude a Convention for this purpose and have appointed as the Plenipotentiaries :

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

FOR GREAT BRITAIN AND NORTHERN IRELAND :

Lord TYRRELL OF AVON (G.C.M.G., K.C.B., K.C.V.O.), His Majesty's Ambassador Extraordinary and Plenipotentiary at Paris ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. PAUL-BONCOUR, Minister for Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed as follows :

CHAPTER I. — GENERAL.

*Article 1.*

In this Convention :

§ 1. The words " His Majesty " shall mean His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India.

§ 2. The words " territory of one (or of the other) High Contracting Party " mean :

(a) On the part of His Majesty, the United Kingdom (England and Wales, Scotland and Northern Ireland), and any territories to which the Convention may be applicable by reason of extensions under Article 11 or accessions under Article 13, and

<sup>1</sup> The exchange of ratifications took place at Paris, May 16th, 1936. Came into force June 16th, 1936.

(b) On the part of the President of the French Republic, the metropolitan territory of France (including the adjacent islands and Corsica), and any territories to which the Convention may be applicable by reason of extensions under Article 12.

§ 3. The words "superior court" mean :

(a) In the case of the United Kingdom, the House of Lords, and for England and Wales the Supreme Court of Judicature (Court of Appeal and High Court of Justice) and the Courts of Chancery of the Counties Palatine of Lancaster and Durham ; for Scotland the Court of Session ; and for Northern Ireland the Supreme Court of Judicature ; and

(b) In the case of France, la Cour de Cassation, les Cours d'Appel, les Tribunaux de première instance et les Tribunaux de commerce, and in the case of judgments for the payment of compensation to a "partie civile" in criminal proceedings, les Tribunaux correctionnels and les Cours d'Assises. All other courts in these territories shall be deemed to be "inferior courts" for the purpose of this Convention.

§ 4. The word "judgment" means any decision of a court however described (judgment order and the like) by which the rights of the parties are finally determined ; and does not include (in particular) provisional, interlocutory or preparatory judgments.

§ 5. The words "original court" mean in relation to any judgment the court by which such judgment was given : and the words "court applied to" the court in which it is sought to obtain recognition of a judgment or to which an application for the registration of a judgment or for the grant of an exequatur is made.

§ 6. The words "judgment debtor" mean the person against whom the judgment was given in the original court and include, where necessary, any person against whom such judgment is enforceable : and the words "judgment creditor" mean the person in whose favour the judgment was given and include, where necessary, any other person entitled to avail himself of the judgment.

#### Article 2.

§ 1. The High Contracting Parties agree that judgments pronounced after the date of the entry into force of the present Convention by a superior court in the territory of one High Contracting Party shall, whatever the nationality of the judgment creditor or debtor, be recognised and enforced in the territory of the other in the cases and upon the conditions laid down in Articles 3-8 of the present Convention.

§ 2. The provisions of the present Convention only apply to judgments in civil and commercial matters, including judgments for the payment of a sum of money as compensation upon the claim of an injured party appearing as "partie civile" in criminal proceedings.

§ 3. Nevertheless the provisions of the present Convention do not apply :

(a) To judgments given on appeal from inferior courts ;

(b) To judgments given in matters of status or family law (including judgments in matrimonial causes or concerning the pecuniary relations between the spouses as such) ; to judgments in matters of succession or administration of estates of deceased persons ; or judgments in bankruptcy proceedings or proceedings relating to the winding up of companies or other bodies corporate.

§ 4. It is understood that nothing in the present Convention shall be deemed to preclude the recognition and enforcement in the territory of one High Contracting Party, in accordance with the municipal law for the time being in force in the country concerned, of judgments pronounced by any court in the territory of the other High Contracting Party, being judgments to which the present Convention does not apply, or judgments given in circumstances where the provisions of the present Convention do not require such recognition or enforcement.

## CHAPTER II. — RECOGNITION.

## Article 3.

§ 1. The judgments referred to in Article 2 pronounced by a court in the territory of one High Contracting Party, shall be recognised in the courts of the territory of the other in all cases where no objection to the judgment can be established on any of the grounds hereinafter enumerated ; that is to say, unless :

(a) The jurisdiction of the original court is not recognised under the rules of Private International Law with regard to jurisdiction observed by the court applied to ;

(b) The judgment was given by default and the judgment debtor satisfies the court applied to that the defendant in the proceedings before the original court did not actually acquire knowledge of the proceedings in sufficient time to act upon it, whether or not such notice was served in accordance with the law of the country of the original court ;

(c) The judgment is one which, for reasons of public policy, cannot be recognised by the court applied to, including cases where the judgment :

(i) Is in respect of a cause of action which had already, as between the same parties, formed the subject of another judgment which is recognised under the law of the court applied to as final and conclusive ;

(ii) Has, in the opinion of the court applied to, been obtained by the fraud of any of the parties ;

(iii) Was given against a person, defendant in the proceedings before the original court who, in the opinion of the court applied to, under the rules of public international law was entitled to immunity from the jurisdiction of the original court ;

(iv) Is sought to be enforced against a person who is entitled to immunity from the jurisdiction of the court applied to under the rules of public international law ;

(d) The judgment debtor satisfies the court applied to that proceedings by way of appeal, opposition or setting aside have been instituted against the judgment in the country of the original court. It is understood that, if such proceedings have not been actually instituted, but the time for lodging an appeal, opposition or application to set aside has not expired under the law of the country of the original court, the court applied to may, if it thinks fit, adjourn its decision on the recognition of the judgment so as to allow the judgment debtor a reasonable opportunity of instituting such proceedings.

§ 2. It is understood that recognition shall not be refused merely on the ground that the original court has applied, in the choice of the system of law applicable to the case, rules of Private International Law different from those observed by the court applied to.

§ 3. For the purposes of the present Convention, the recognition of a judgment means that such judgment shall be treated as conclusive as to the matter thereby adjudicated upon in any further action as between the parties (judgment creditor and judgment debtor) and as to such matter shall constitute a defence in a further action between them in respect of the same cause of action.

## Article 4.

§ 1. Notwithstanding the provisions of Article 3, § 1 (a), and without prejudice to the provisions of paragraphs 2 and 3 of this Article, the original court shall be recognised as possessing jurisdiction in all cases :

(a) Where the judgment debtor was in respect of the matter which is the subject of the judgment a plaintiff (including a plaintiff by intervention) or counter-claimant in the proceedings in the original court ;

(b) Where the judgment debtor, being a defendant in the proceedings in the original court, submitted to the jurisdiction by voluntarily appearing in the proceedings. It is

understood that the expression "voluntarily appearing in the proceedings" does not include an appearance merely for the purpose of protecting property situated within the jurisdiction of the original court from seizure, or of obtaining the release of property seized or for the purpose of contesting the jurisdiction of the original court;

(c) Where the judgment debtor, being a defendant in the proceedings in the original court, had before the commencement of the proceedings concluded a valid agreement to submit to the jurisdiction of the courts of the country of the original court or of the original court in respect of the subject matter of the proceedings;

(d) Where the judgment debtor, being a defendant in the original court, was, at the time when the proceedings were instituted, resident in the country of the original court, or, being a company or other body corporate, had its head office in the country of the original court;

(e) Where the judgment debtor, being a defendant in the original court, had, within the country of the original court, either a business or commercial establishment or a branch office, and the proceedings were in respect of a transaction effected through, or at, such establishment or branch office.

Nevertheless the jurisdiction of the original court need not be recognised in the cases referred to in sub-paragraphs (d) and (e) above, if the judgment debtor satisfies the court applied to that the bringing of the proceedings in the original court was contrary to a valid agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in the original court.

§ 2. The provisions of paragraph 1 of this Article do not apply to judgments where the subject matter of the proceedings is immovable property, nor to judgments *in rem* in respect of movable property. Nevertheless in these cases the jurisdiction of the original court shall be recognised if such property was situated in the country of the original court at the time of the commencement of the proceedings in the original court.

§ 3. Recognition of the jurisdiction of the original court shall not be refused on the ground that the original court had no jurisdiction under the law of its own country, if, under the law of the country of the original court, the judgment is conclusive until set aside.

### CHAPTER III. — EXECUTION OF JUDGMENTS.

#### Article 5.

§ 1. The judgments referred to in Article 2 of the courts in the territory of one High Contracting Party shall be enforced in the territory of the other in the manner provided in Articles 6-8 of this chapter of the present Convention provided that the following conditions are fulfilled:

- (a) They are capable of being executed in the country of the original court;
- (b) A definite sum of money is made payable thereby, other than a sum of money payable for any form of taxation, State or Municipal, or for any form of penalty;
- (c) None of the objections set out in the preceding chapter to the recognition of the judgment can be established.

2. Where a judgment is rendered enforceable the costs recoverable under the judgment shall also be enforceable. Nevertheless the court applied to may on the application of the judgment debtor limit the amount of the costs to a sum equal to 10 per cent. of the sum for which the judgment is rendered enforceable.

#### Article 6.

§ 1. In order that any judgment of a superior court in the territory of the French Republic should be enforced in the United Kingdom, an application for its registration, accompanied by a

certified copy of the judgment issued by the original court, including the reasons therefor and full particulars as regards the proceedings, should be made :

- (a) In England and Wales, to the High Court of Justice ;
- (b) In Scotland to the Court of Session, and
- (c) In Northern Ireland to the Supreme Court of Judicature in accordance with the procedure of the court applied to.

§ 2. A judgment bearing the executory formula prescribed by French law shall, in the absence of proof to the contrary, be deemed to be capable of execution in France within the meaning of Article 5, § 1 (a). The formula at present in use is that set out in the Annex to the present Convention.

§ 3. If such application is made in respect of a judgment fulfilling the conditions laid down in Article 5, registration shall be granted, unless :

- (a) The judgment debt has been wholly satisfied, or
- (b) The right to enforce the judgment is not vested in the person by whom the application is made.

#### Article 7.

§ 1. In order that any judgment of a court in the territory of His Majesty should be enforced in France it is necessary that an application for the grant of an exequatur accompanied by a certified copy of the judgment issued by the original court, including full particulars as regards the proceedings and the causes of action in respect of which it was given, should, in accordance with the procedure of the court applied to, be duly made in France to the Tribunal of First Instance in whose jurisdiction the judgment debtor has his principal establishment (*domicile*) or any other tribunal competent by French law.

§ 2. Any judgment in respect of which a certified copy has been issued by the original court shall be deemed to have been a judgment which was capable of execution in the country of the original court at the time the certificate was issued.

§ 3. If such application is made in respect of a judgment fulfilling the conditions laid down in Article 5, an exequatur shall be granted unless :

- (a) The judgment debt has been wholly satisfied ;
- (b) The right to enforce the judgment is not vested in the person by whom the application is made.

#### Article 8.

§ 1. Where any judgment has been registered under Article 6, or where an exequatur has been granted in respect of a judgment under Article 7, such judgments shall, as from the date of registration or grant of exequatur, be as regards all questions relating to its execution in the country of the court applied to of the same effect as if it had been a judgment originally given by the court applied to at the date of the registration or of the grant of the exequatur ; and the court applied to shall have the same control and jurisdiction over the execution of the judgment as it has over the execution of similar judgments given by itself.

§ 2. Any copy of any judgment certified by the original court and attested with its seal, shall be accepted without the necessity of further legalisation, but translations of the documents may be required certified in the manner required by the procedure of the court applied to.

§ 3. While the procedure for the registration of a judgment under Article 6 and the procedure for the grant of an exequatur to a judgment under Article 7 is regulated by the procedure of the country of the court applied to, it is the common intention of the High Contracting Parties that

such procedure should be made as simple and rapid as possible. No deposit by way of security for costs or *cautio judicatum solvi* shall be required of any person making application for such registration, or for the grant of an exequatur.

§ 4. A period of not less than six years, unless the law of the court applied to allows a longer period, running from the date of the judgment of the original court, if no proceedings have been taken against the judgment in the country of the original court or from the date of the judgment given in last instance if such proceedings have been taken, shall be allowed by the court applied to for the purpose of making any application for registration or the grant of exequatur.

§ 5. It is understood :

(i) That, if it is found by the court applied to that the judgment, whose enforcement is sought by registration under Article 6 or by the grant of an exequatur under Article 7, has been partly but not wholly satisfied by payment, registration or exequatur shall be granted in respect of the unpaid balance provided that the judgment is otherwise one which would be enforceable under the provisions of this Convention ;

(ii) That if it is found by the court applied to that a judgment, whose enforcement is sought by registration under Article 6 or by grant of exequatur under Article 7, is one under which sums of money are payable in respect of different heads of claim and that reasons for the refusal of the registration or exequatur exist in respect of some, but not of all, the grounds of claim, registration or exequatur shall be granted in respect of the sums of money due under those portions of the judgment to the enforcement of which no objection under the provisions of this Convention is established ;

(iii) That, if under a judgment a sum of money is payable, which is expressed in a currency other than that of the country of the court applied to, the law of the country of the court applied to shall determine if, and if so in what manner and in what circumstances, the amount payable under the judgment may or shall be converted into the currency of the country of the court applied to for the purposes of the satisfaction or enforcement of the judgment debt.

§ 6. When granting registration or exequatur the court applied to shall, if so requested by the proper party, include the amount due by way of interest up to the date of the grant of registration or exequatur. If the interest due on the claim up to the date of the judgment has been determined in the judgment of the original court, and a certificate emanating from the original court is produced, specifying the rate of interest due in accordance with the law of the country of the original court, upon the sum for which the judgment is given, the court applied to shall follow the indications so given in determining the amount of the interest. If this is not the case, the party claiming interest may prove what is the sum due under the law of the original court by way of interest on the claim which forms the subject of the judgment. As from the date of registration or exequatur, interest shall be allowed at 4 per cent. on the total sum (principal and interest) in respect of which registration or exequatur is granted.

#### CHAPTER IV. — FINAL PROVISIONS.

##### *Article 9.*

The High Contracting Parties agree that any difficulties which may arise in connexion with the interpretation or application of this Convention shall be settled through the diplomatic channel. It is, however, understood that the decisions of their respective courts cannot be reopened.

##### *Article 10.*

The present Convention, of which the English and French texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged in Paris. The Convention shall come

into force one month after the date on which ratifications are exchanged, and shall remain in force for three years after the date of its coming into force. If neither of the High Contracting Parties shall have given notice through the diplomatic channel to the other, not less than six months before the expiration of the said period of three years, of his intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the High Contracting Parties shall have given notice to terminate it.

#### Article 11.

§ 1. His Majesty may, by a notification given through his Ambassador at Paris, at any time while the Convention is in force under Article 10, and provided that an agreement has been concluded by an exchange of notes on the points mentioned in paragraph 2 of this Article, extend the operation of this Convention to the Channel Islands, the Isle of Man, any of his colonies, overseas territories or protectorates, or any territories under his suzerainty, or any mandated territories in respect of which the mandate is exercised by his Government in the United Kingdom.

§ 2. Prior to any notification of extension in respect of any territory under the preceding paragraph, an agreement shall be concluded between the High Contracting Parties by an exchange of notes as to the courts of the territory concerned, which shall be deemed to be "superior courts" for the purposes of this Convention, and the courts to which application for registration of any judgment shall be made.

§ 3. The date of the coming into force of any extension under this Article shall be three months from the date of the notification given under the first paragraph of this Article.

§ 4. Either of the High Contracting Parties may, at any time after the expiry of three years from the coming into force of an extension of this Convention to any of the territories referred to in paragraph 1 of this Article, terminate such extension on giving six months' notice of termination through the diplomatic channel.

§ 5. The termination of the Convention under Article 10 shall, unless otherwise expressly agreed to by both High Contracting Parties, *ipso facto* terminate it in respect of any territories to which it has been extended under paragraph 1 of this Article.

#### Article 12.

§ 1. The French Government may, by a notification given through the Ambassador of the French Republic in London at any time while the Convention is in force under Article 10, and provided that an agreement has been concluded by an exchange of notes on the points mentioned in paragraph 2 of this Article, extend the operation of this Convention to Algeria, any colonies or protectorates of the French Republic or any mandated territories administered by the French Government.

§ 2. Prior to any notification of extension in respect of any territory under the preceding paragraph, an agreement shall be concluded between the High Contracting Parties by an exchange of notes as to the courts of the territory concerned, which shall be deemed to be "superior courts" for the purposes of this Convention, and the courts to which application for the grant of exequatur in respect of any judgment or order shall be made.

§ 3. The provisions of paragraphs 3, 4 and 5 of the preceding Article shall apply to any territories to which this Convention has been extended under paragraph 1 of this Article.

#### Article 13.

§ 1. The High Contracting Parties agree that His Majesty may at any time while the present Convention is in force, either under Article 10 or by virtue of any accession under this Article, and



provided that an agreement has been first concluded by an exchange of notes on the points mentioned in paragraph 2 of this Article, by a notification given through the diplomatic channel accede to the present Convention in respect of any Member of the British Commonwealth of Nations whose Government may desire that such accession should be effected, provided that no notification of accession may be given at any time, when the President of the French Republic has given notice of termination in respect of all the territories of His Majesty to which the Convention applies.

§ 2. Prior to any notification of accession under the preceding paragraph, an agreement shall be concluded between the High Contracting Parties by an exchange of notes as to courts of the country concerned which shall be deemed to be "superior courts" for the purposes of this Convention, and the courts to which an application for the registration of a judgment shall be made.

§ 3. Any such accession shall take effect three months after the date of its notification.

§ 4. After the expiry of three years from the date of the coming into force of any accession under paragraph 1 of this Article, either of the High Contracting Parties may, by giving six months' notice of termination through the diplomatic channel, terminate the application of the Convention to any country in respect of which a notification of accession has been given. The termination of the Convention under Article 10 shall not affect its application to any such country.

§ 5. Any notification of accession under paragraph 1 of this Article may include any dependency or mandated territory administered by the Government of the country in respect of which such notification of accession is given; and any notice of termination in respect of any such country under paragraph 4 shall apply to any dependency or mandated territory which was included in the notification of accession in respect of that country.

In witness whereof the undersigned have signed the present Convention, in English and French texts, both of which are equally authentic, and have affixed thereto their seals.

Done in duplicate at Paris, the eighteenth day of January, 1934.

(L. S.) TYRRELL OF AVON.

#### ANNEX.

(See Article 6, Paragraph 2.)

#### THE EXECUTORY FORMULA PRESCRIBED BY FRENCH LAW.

The text of the executory formula at present in force is laid down by a decree of the 2nd September, 1871, which reads as follows: "Article 2. Les expéditions des jugements, arrêts, mandats de justice, ainsi que les grosses et expéditions des contrats et de tous autres actes susceptibles d'exécution forcée, seront intitulées ainsi qu'il suit :

" République française. Au nom du peuple français. "

Et terminées par la formule suivante :

" En conséquence, le Président de la République française mande et ordonne à tous huissiers sur ce requis de mettre ledit arrêt (ou ledit jugement, etc.) à exécution, aux procureurs généraux et aux procureurs de la République près les tribunaux de première instance d'y tenir la main, à tous commandants et officiers de la force publique de prêter main-forte lorsqu'ils en seront légalement requis.

" En foi de quoi le présent arrêt (ou jugement, etc.) a été signé par . "

## PROTOCOL.

The undersigned Plenipotentiaries, at the moment of signing the Convention between His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic relating to the Reciprocal Enforcement of Judgments, declare that it is understood that nothing in Article 4 of the said Convention shall be deemed to oblige the French courts to recognise the jurisdiction of a court in the territory of His Majesty in cases relating to contracts of assurance in the cases covered by :

1. The law of the 2nd January, 1902, relating to jurisdiction in the matter of assurance.
2. Articles 3 and 84 of the law of the 13th July, 1930, relating to contracts of assurance.

This Protocol forms an integral part of the Convention to which it refers.

Done at Paris, the eighteenth of January, 1934.

(L. S.) TYRRELL OF AVON.