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EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT[1] BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF SINGAPORE ON THE CONTINUED APPLICATION OF THE CONVENTION BETWEEN THE UNITED KINGDOM AND GERMANY REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS, SIGNED AT LONDON ON 20 MARCH 1928

MFA C/0935/1998

The Ministry of Foreign Affairs of the Republic of Singapore presents its compliments to the Embassy of the Federal Republic of Germany and with reference to the latter's Note No. 135/97 of 9 September 1997 has the honour to inform the latter that the Government of Singapore welcomes the proposal to continue observing the Convention between the United Kingdom and Germany regarding Legal Proceedings in Civil and Commercial Matters (1928) and the said 1928 Convention therefore remains in full force and effect between Germany and Singapore, as agreed in the 1965 Exchange of Notes between Germany and Singapore.

The Ministry has the further honour to inform the Embassy that the Government of Singapore shall continue to comply with Article 14 of the Convention, which states that subjects or citizens of one party shall enjoy in the territory of the other party a perfect equality of treatment as regards free judicial assistance for poor persons.

The Ministry wishes to inform the Embassy that the Government of Singapore agrees that where the provisions of the 1928 Convention go beyond the (equivalent) provisions of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (in so far as that Convention applies to Germany and Singapore), it is the provisions of the 1928 Convention that shall take precedence over the corresponding provisions of the Hague Convention.

The Ministry of Foreign Affairs of the Republic of Singapore avails itself of this opportunity to renew to the Embassy of the Federal Republic of Germany the assurances of its highest consideration.

SINGAPORE

20 May 98

Embassy of the Federal Republic of Germany

Singapore

MINISTER FOR LAW AND
NATIONAL DEVELOPMENT
SINGAPORE.

Your Ref: V 5-83
Our Ref: LAW(MP)02/64/Vol.II 22nd October, 1965.

The Honourable
The Consul General of the
Federal Republic of Germany,
146, Robinson Road,
P.O. Box 1697,
Singapore, 1

Dear Consul General,

Convention between the United Kingdom and
Germany regarding Legal Proceedings in
Civil and Commercial Matters.

Thank you for your letter of the 15th October, 1965, with enclosures as therein mentioned.

I confirm that following the Independence of Singapore Agreement dated the 7th August, 1965, the above Convention applies between Singapore and the Federal Republic of Germany.

Yours sincerely,

(E.W. Barker)

CONVENTION *between the United Kingdom and Germany regarding Legal Proceedings in Civil and Commercial Matters.—London, March 20, 1928.* ([1])

[Ratifications exchanged at Berlin, February 15, 1929.]

HIS Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, and the President of the German Reich, being desirous to facilitate the conduct of legal proceedings between persons resident in their respective territories, have resolved to conclude a convention for this purpose and have appointed as their plenipotentiaries:—

[Here follow the names.]

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

I.—*Preliminary*.

ART.1. This convention applies only to civil and commercial matters, including non-contentious matters.

II.—*Service of Judicial and Extra-Judicial Documents*.

2. When judicial or extra-judicial documents drawn up in the territory (to which this convention applies) of one of the contracting parties are to be served on persons, partnerships, corporations or companies in the territory (to which this convention applies) of the other, such documents may, without prejudice to the provisions of articles 6 and 7 hereof, be served on the recipient in either of the ways provided in articles 3 and 5.

3.—(*a*) The request for service shall be transmitted:—

In England by a German diplomatic or consular officer to the Senior Master of the Supreme Court of Judicature in England.

In Germany by a British consular officer to the President of the German "Landgericht."

(*b*) The request, containing the name of the authority from whom the document transmitted emanates, the names and descriptions of the parties, the address of the recipient and the nature of the document in question, shall be drawn up in the language of the country in which the documents are to be served.

([1]) "Treaty Series No. 5 (1929)" (Cmd. 3286.) Signed also in the German language.

If in a particular case the judicial authority applied to shall express a desire to that effect to the diplomatic or consular officer by whom the request is transmitted, such officer shall furnish a translation of the document to be served.

(*c*) Service shall be effected by the competent authority of the country applied to. Such authority, except in the cases provided for in paragraph (*d*) of this article, may limit his action to effecting service by the transmission of the document to the recipient if he is willing to accept it.

(*d*) If the document to be served is drawn up in the language of the country applied to, or is accompanied by a translation in that language, the authority applied to (should a wish to that effect be expressed in the request) shall serve the document in the manner prescribed by the law of his own country for the service of similar documents or in a special form which is not incompatible with such law.

(*e*) The translation provided for in this article shall be certified as correct by a diplomatic or consular officer of the contracting party making the request or by an official or sworn translator of one of the two countries concerned.

(*f*) The execution of the request for service can only be refused if the contracting party in whose territory it is to be effected considers it such as to compromise his sovereignty or safety.

(*g*) The authority who receives the request shall send to the diplomatic or consular officer by whom it was transmitted the document proving the service or explaining the reason which has prevented such service. Proof of service shall be furnished by a certificate from the authority of the country applied to setting for the fact, the manner and date of such service. If any document to be served is transmitted in duplicate, the certificate of service shall be placed on one of the duplicates or attached thereto.

4. No fees of any description shall be payable by one contracting party to the other in respect of the service.

Nevertheless, in the cases provided for in article 3, the contracting party making the request must pay to the other contracting party any charges and expenses which are payable under the local law to the persons employed to effect service and any charges and expenses incurred in effecting service in a special manner. These charges and expenses shall be such as are usually allowed in such cases in the courts of the contracting party applied to. Repayment of these charges and expenses shall be claimed by the judicial authority by whom the service has been effected when sending the certificate provided for in article 3(*g*) to the diplomatic or consular officer by whom the request was transmitted.

5. The document to be served may also be served on the recipient, unless he is a subject or citizen of the contracting party in whose territory the document is

to be served, without the intervention of the authorities of the country in which service is to be effected:—

(*a*) By a diplomatic or consular officer of the contracting party from whose territory the document emanates; or

(*b*) By an agent appointed, either generally or in any particular case, by a tribunal of the country from which the document emanates, or by the party on whose application the document was issued, provided that the validity of any service effected by any such agent shall, in the courts of the country where such service is effected, be determined by the law of that country.

6. Documents may also be transmitted by post in cases where this method of transmission is permitted by the law of the country from which the document emanates.

7. The provisions of articles 2, 3, 4, 5 and 6 do not prevent the persons concerned from effecting service directly through the competent officials or officers of the country in which the document is to be served.

III.—*Taking of Evidence.*

8. When a court in any territory (to which the convention applies) of one of the contracting parties orders that evidence should be taken in any territory (to which this convention applies) of the other contracting party, this may be done in any one of the ways prescribed in articles 9, 11 and 12.

9.—(*a*) The court may, in accordance with the provisions of its own law, address itself by means of "letters of request" to the competent authority of the other contracting party, requesting it to take the evidence within its jurisdiction.

(*b*) The "letters of request" shall be drawn up in the language of the authority to whom they are addressed, or be accompanied by a translation in such language certified as correct by a diplomatic or consular officer of the contracting party making the request, or by an official or sworn translator of one of the two countries concerned.

(*c*) The "letters of request" shall be transmitted:—

In England by a German diplomatic or consular officer to the Senior Master of the Supreme Court of Judicature in England.

In Germany by a British consular officer to the President of the German Landgericht.

(*d*) It shall be incumbent upon the judicial authority to whom the "letters of request" are addressed to give effect thereto by the use of the same compulsory

measures as are employed in the execution of a commission or order emanating from the authorities of his own country.

(*e*) The diplomatic or consular officer by whom the "letters of request" are transmitted shall, if he so desires, be informed of the date and place where the proceedings will take place, in order that the interested party or parties may be able to be present, or to be represented.

(*f*) The execution of the "letters of request" can only be refused —

(1) If the authenticity of the "letters of request" is not established.

(2) If in the country where the evidence is to be taken the execution of the "letters of request" in question does not fall within the functions of the judiciary.

(3) If the contracting party applied to considers that his sovereignty or safety would be compromised thereby.

(*g*) In case the authority to whom they are addressed is without jurisdiction, the "letters of request" shall be forwarded without any further request to the competent authority of the same country in accordance with the rules laid down by its law.

(*h*) In every instance where the "letters of request" are not executed by the authority to whom they are addressed, the latter will at once inform the diplomatic or consular officer by whom the "letters of request" were transmitted, stating the grounds on which the execution of the "letters of request" has been refused, or the judicial authority to whom they have been forwarded.

(*i*) The authority which executes the "letters of request" will apply, so far as the procedure to be followed is concerned, the law of his own country.

Nevertheless, an application by the authority making the request that some special procedure may be followed shall be acceded to, provided that such procedure is not incompatible with the law of the country applied to.

10. No fees of any description shall be payable by one contracting party to the other in respect of the execution of any "letters of request".

Nevertheless, the contracting party making the request shall repay to the other contracting party any charges and expenses payable to witnesses, experts, interpreters, or translators, the costs of obtaining the attendance of witnesses who have not appeared voluntarily, and the charges and expenses payable to any person whom the competent judicial authority may have deputed to act in cases where his municipal law permits this to be done, and any charges and expenses incurred by reason of a special procedure being requested and followed.

The repayment of these charges and expenses may be claimed by the judicial authority by whom the "letters of request" have been executed, when sending to

him the documents establishing their execution, from the diplomatic or consular officer by whom they were transmitted. These charges and expenses shall be such as are usually allowed in such case in the courts of the country where the "letters of request" have been executed.

11.—(*a*) The evidence may also be taken without the intervention of the authorities of the country in which it is to be taken, by a diplomatic or consular officer of the contracting party before whose courts the evidence is to be used:

Provided that this article shall not apply to the taking of evidence of subjects or citizens of the contracting party in whose territory it is to be taken unless and until the German Government, at any time, by a notification([2]) given through their Ambassador in London, signify their consent to the article being so applied, in which case this article shall, as from the date of such notification, apply to such subjects or citizens if they consent to their evidence being so taken.

(*b*) The diplomatic or consular officer appointed to take the evidence may request named individuals to appear as witnesses or to produce any document, and shall have power to administer an oath, but he shall have no compulsory powers.

(*c*) The evidence may be taken in accordance with the procedure laid down by the law of the country in which the evidence is to be used, and the parties shall have the right to be present and to be represented by counsel or solicitors of that country, or by any person competent to appear before the tribunals of either country.

12.—(*a*) The competent court of the contracting party applied to may also be requested to cause the evidence to be taken by a diplomatic or consular officer of the contracting party making the request.

The court applied to shall, in the case of subjects or citizens of the contracting party making the request, take the necessary steps to secure the attendance of and the giving of evidence by witnesses and other persons to be examined, and the production of documents, making use, if necessary, of its compulsory powers.

(*b*) The person thus nominated shall have power to administer an oath. The evidence shall be taken in accordance with the law of the country in which it is to be used, and the parties shall have the right to be present in person or represented by counsel or solicitors of that country or by any persons who are competent to act before the courts of either country.

13. The fact that an attempt to take evidence by the method laid down in article 11 has failed owing to the refusal of any witnesses to appear or to give evidence, or to produce documents, does not preclude an application being subsequently made in accordance with articles 9 or 12.

([2]) This notification was made by the German Ambassador on February 15, 1929.

14. The subjects or citizens of one contracting party shall enjoy in the territories (to which the convention applies) of the other contracting party a perfect equality of treatment as regards free judicial assistance for poor persons and imprisonment for debt, and, provided that they are resident in any such territory, shall not be compelled to give security for costs in any case where a subject or citizen of such other contracting party would not be so compelled.

IV.—*General Provisions.*

15. Any difficulties which may arise in connexion with the operation of this convention shall be settled through the diplomatic channel.

16. The present convention, of which the English and German texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged at Berlin and the convention shall come into force 1 month after the date on which ratifications are exchanged, and shall remain in force for 3 years after the date of its coming into force. In case neither of the contracting parties shall have given notice to the other 6 months before the expiration of the said period of 3 years of his intention to terminate the convention, it shall remain in force until the expiration of 6 months from the day on which either of the contracting parties shall have given such notice.

17.—(*a*) The present convention shall not apply *ipso facto* to Scotland or Northern Ireland, nor to any of His Britannic Majesty's colonies or protectorates nor to any territories under his suzerainty, nor to any mandated areas administered by his Government in Great Britain, but His Britannic Majesty may at any time, by a notification given through His Majesty's Ambassador at Berlin, extend the operation of this convention to any of the above-mentioned territories.

(*b*) Such notification shall state the date on which such extension shall come into force, the authorities in the territory concerned to whom judicial and extra-judicial documents and "letters of request" are to be transmitted, and the language in which communications to such authorities and translations should be made. The date of the coming into force of any such extension shall not be less than 1 month from the date of such notification.

(*c*) Either of the contracting parties may, at any time after the expiry of 3 years from the coming into force of the extension of this convention to any of the territories referred to in paragraph (*a*) of this article, terminate such extension on giving 6 months' previous notice.

18.—(*a*) His Britannic Majesty may at any time, by a notification given through his Ambassador at Berlin, accede to the present convention in respect of any of his self-governing Dominions or India. The provisions of article 17(*b*) shall be applicable to any such notification. Any such accession shall take effect 1 month after the date of its notification.

(*b*) After the expiry of a period of 3 years from the date of the coming into force of any accession under paragraph (*a*) of this article, either of the contracting parties may, by giving 6 months' notice, terminate the application of the convention to any country in respect of which such notification of accession has been given. In the absence of such notice, the termination of the convention under article 16 shall not affect its application to any such country.

(*c*) Any notification made under paragraph (*a*) of this article may include any dependency or mandated area administered by the Government of the country in respect of which the notification of accession is given; and any notice of termination given under paragraph (*b*) shall apply to any such dependency or mandated area which was included in such notification of accession.

In witness where of the respective plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done in duplicate at London the 20th day of March, 1928.

(L.S.) AUSTEN CHAMBERLAIN.

(L.S.) STHAMER.

CONVENTION between the United Kingdom and Germany regarding Legal Proceedings in Civil and Commercial Matters. — London, March 20, 1928. ([1])

Extended to: —

Northern Ireland … …	June 14, 1929.
Bahamas, Barbados, British Guiana, British Honduras, Brunei, Ceylon, Cyprus, Falkland Islands, Federated Malay States, Fiji, Gambia, Gibraltar, Gold Coast, Grenada, Jamaica, Kenya, Leeward Islands, Mauritius, North Borneo, Northern Rhodesia, Nyasaland Protectorate, Palestine, St. Helena, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone, Somaliland, Straits Settlements, Tanganyika Territory, Trinidad, Uganda, Unfederated Malay States, Zanzibar	November 25, 1929.

([1]) Vol. CXXVIII, page 302.