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**No. T 3**

# EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN THE REPUBLIC OF ITALY AND THE REPUBLIC OF SINGAPORE ON THE CONTINUED APPLICATION OF THE CONVENTION BETWEEN THE UNITED KINGDOM AND ITALY REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS, SIGNED AT LONDON ON 17 DECEMBER 1930

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MFA/C/0694/95

The Ministry of Foreign Affairs of the Republic of Singapore presents its compliments to the Embassy of the Republic of Italy and has the honour to refer to the latter's note Prot. No. 216 dated 14 February 1995.

The Ministry would like to inform the Embassy that Singapore considers herself bound by the Convention between Italy and the United Kingdom of Great Britain regarding legal proceedings in civil and commercial matters signed at London on 17 December 1930. Diplomatic notes to this effect were exchanged between the Embassy and the Ministry on 27 November 1986 and 3 February 1987.

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

SINGAPORE

14 June 1995

Embassy of the Republic of Italy

Singapore

No P/316/87 (MFA 643:521/38/1 Vol 2)

The Ministry of Foreign Affairs of the Republic of Singapore presents its compliments to the Embassy of the Republic of Italy and has the honour to refer to the latter's Note No 210/C dated 27 November 1986.

The Ministry has the honour to inform the Embassy that Singapore considers herself continued to be bound by the convention signed in London on 17 December 1930 between the United Kingdom and Italy respecting legal proceedings in Civil and Commercial matters. A copy of the laws which indicate that the convention was extended to the Straits Settlements of which Singapore was then a part is attached for reference.

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

SINGAPORE

3 February 1987

Embassy of the Republic of Italy

Singapore

*CONVENTION between the United Kingdom and Italy regarding Legal Proceedings in Civil and Commercial Matters.—London, December* 17, 1930.([1])

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[Ratifications exchanged at London, June 7, 1932.]

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HIS Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, and His Majesty the King of Italy,

Being desirous to render mutual assistance in the conduct of legal proceedings, in their respective territories, in civil and commercial matters which are being dealt with by their respective judicial authorities.

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.

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

2. When judicial or extra-judicial documents drawn up in any of the territories (to which this convention applies) of one of the high contracting parties are to be served on persons (including corporations) in any territory (to which this convention applies) of the other, such documents may, at the option of the party interested, be served on the recipient in any of the ways provided in articles 3 and 4.

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

In Italy by a British consular officer to the Procurators Generale presso la Corte d'Appello of the district in which the document is to be served.

In England by an Italian consular officer to the Senior Master of the Supreme Court of Judicature in England.

(*b*) The request, containing the name of the authority from which the document transmitted emanates, the names and descriptions of the parties, the

([1]) *Treaty Series* No. 17 (1932) (Cmd. 4105) Signed also in the Italian language.

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. The document to be served shall be drawn up in the language of the country in which it is to be served, or be accompanied by a translation in such language. The said translation shall be certified as correct by a diplomatic or consular agent of the high contracting party making the request, or by an official or sworn translator of one or other of the two countries concerned.

(*c*) Service shall be effect by the competent authority of the country where it is to be served, who shall serve the document in the manner prescribed by the municipal law of such country for the service of similar documents, or, should a wish to that effect be expressed in the request, in a special form which is not incompatible with such law. If the authority to whom a document has been transmitted is not competent to deal with it, such authority shall of its own motion transmit the document to the competent authority of its own country.

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

(*e*) The authority which receives the request shall send to the consular officer by whom it was transmitted the documents 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 where service has been effected, setting forth the fact, the manner and the date of such service. The document to be served, and the translation, if any, shall be forwarded in duplicate, and the certificate shall appear on one of the copies, or be attached to it.

4. The document to be served may also be served on the recipient, whatever his nationality, 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 high contracting party from whose territory the document emanates; or

(*b*) By an agent appointed by the judicial authority of the country from which the document emanates, or by the party on whose application the document was issued. In the case of documents to be served in Italy, such agent shall always be either a notary public or an advocate, who shall employ for the act of service an official competent by Italian law for this purpose.

The document to be served shall be drawn up in the language of the country in which service is to be effected, or shall be accompanied by a translation in such language, unless the recipient is a subject of the high contracting party from whose territory the document emanates.

5. The provisions of articles 2, 3 and 4 shall 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.

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

Nevertheless, in the case provided for in article 3, the high contracting party making the request must pay to the other high 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 calculated in accordance with the tariff in force in the country where the documents are served for subjects of the high contracting party applied to. Repayment of these charges and expenses shall be claimed by the competent authority from the consular officer by whom the request was transmitted when sending to him the certificate provided for in article 3(*e*).

7. Nothing in this convention shall render illegal or inadmissible in territories of either high contracting party any mode of service which is not illegal under the law existing at the time of the service in the country in which it is to be effected.

III.—*Taking of Evidence.*

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

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

(*b*) The "letters of request" shall be drawn up in the language of the authority to whom the request is addressed, or be accompanied by a translation in such language certified as correct by a diplomatic or consular officer of the high 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 an Italian consular officer to the Senior Master of the Supreme Court of Judicature in England.

In Italy by a British consular officer to the Procuratore Generale pressor la Corte d'Appello of the district in which the "letters of request" are to be executed.

(*d*) It shall be incumbent upon the judicial authority to which 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 its own country.

(*e*) The 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 he may inform the interested party or parties who shall be permitted to be present in person or to be represented if they so desire.

(*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 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 high 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 consular officer by whom they 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 its 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 where the evidence is to be taken.

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

Nevertheless, the high contracting party making the request shall repay to the other high 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 its 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 competent authority by whom the "letters of request" have been executed when sending to him the documents establishing their execution from the consular officer by whom they were transmitted. These charges and expenses shall be calculated in accordance with the tariff in force in the country where the request has been executed for subjects of such high contracting party so far as the same is applicable.

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 consular officer of the high contracting party for whose judicial authority the evidence is required, or by some other person named by such judicial authority.

(*b*) The agent appointed to take the evidence may request named individuals to appear as witnesses or to produce any document and can take all other kinds of evidence which are not contrary to the local law, and shall have power to administer an oath, but he shall have no compulsory powers.

(*c*) Requests to appear issued by such agent shall, unless the recipient is a subject of the high contracting party for whose judicial authorities the evidence is required, be drawn up in the language of the country where the evidence is to be taken, or accompanied by a translation into such language.

(*d*) 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 will have the right to be present or to be represented by barristers or solicitors of that country or by any persons competent to appear before the tribunals of either of the countries concerned.

12.—(*a*) The competent court to whom "letters of request" are addressed may also be requested to appoint a person to take the evidence, and on being so requested may appoint such a person. Such person may be a consular officer of the high contracting party for whose judicial authority the evidence is required or any other person proposed by such judicial authority.

(*b*) In this case the court applied to shall take the necessary steps to secure the attendance of and giving of evidence by witnesses and other persons to be examined and the production of documents, making use, if necessary, of its compulsory powers.

(*c*) The person thus appointed shall have power to administer an oath, and any person giving false evidence before him shall be liable in the courts of the country where the evidence is taken to the penalties provided by the law of that country for perjury.

(*d*) The evidence shall be taken in accordance with the law of the country in which the evidence is to be used, provided such method is not contrary to the law of the country where the evidence is being taken, and the parties shall have the right to be present in person or be represented by barristers or solicitors of that

country or by any persons who are competent to appear before the courts of either of the countries concerned.

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 witness to appear, to give evidence or to produce documents does not preclude an application being subsequently made in accordance with articles 9 or 12.

IV.—*General Provisions.*

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

15. The present convention, of which the English and Italian texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged in London. 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 high 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 high contracting parties shall have given notice to terminate it.

16.—(*a*) This 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 the United Kingdom of Great Britain and Northern Ireland, but His Britannic Majesty may at any time, by a notification given through his Ambassador at Rome, extend the operation of this convention to any of the above-mentioned territories.

(*b*) Such notification shall state the date on which the 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 and translations are to 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 high contracting parties may, at any time after the expiry of 3 years from the coming into force of an 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.

17.—(*a*) This convention shall not apply *ipso facto* to any of the colonies or protectorates of the Kingdom of Italy, but His Majesty the King of Italy may at any time extend this convention to any of such colonies or protectorates by a notification given through his Ambassador in London.

(*b*) The provisions of paragraph (*b*) of article 16 shall apply to any such notification.

(*c*) The provisions of paragraph (*c*) of article 16 shall apply to any colonies or protectorates of the Kingdom of Italy to whom this convention has been extended.

18.—(*a*) His Britannic Majesty may at any time, by a notification given through the diplomatic channel, accede to the present convention in respect of any of his self-governing Dominions or India. The provisions of article 16(*b*) shall be applicable to such notification. Any such accession shall take effect 1 month after the date of its notification.

(*b*) After the expiry of 3 years from the date of the coming into force of any accession under paragraph (*a*) of this article, either of the high 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. The termination of the convention under article 16 shall not affect its application to any such country.

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

In witness whereof the undersigned have signed the present convention, in English and Italian texts, and have affixed thereto their seals.

Done in duplicate at London, the 17th day of December, 1930.

(L.S.) ARTHUR HENDERSON.

(L.S.) A. C. BORDONARO.

*CONVENTION between the United Kingdom and Italy respecting Legal Proceedings in Civil and Commercial Matters. — London, December* 17, 1930.([1])

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| ACCESSION:— | Effective Date. |
|---|---|
| New Zealand … … … | December 5, 1932. |
| Extended to: — | |
| Scotland, Northern Ireland … … | August 25, 1932. |
| Bahamas, Barbados, Bermuda, British Guiana, British Honduras, Ceylon, Cyprus, Falkland Islands and dependencies, Federated Malay States, Fiji, Gambia (Colony and Protectorate), Gibraltar, Gold Coast (including Ashanti, Northern Territories and Togoland), Grenada, Hong Kong, Jamaica (including Turks and Caicos Islands and Cayman Islands), Kenya (Colony and Protectorate), Leeward Islands, Malta, Mauritius, Nigeria (including Cameroons), North Borneo, Northern Rhodesia, Nyasaland Protectorate, Palestine (excluding Transjordan), St. Helena and Ascension, St. Lucia, St. Vincent, Sarawak, Seychelles, Sierra Leone (Colony and Protectorate), Somaliland Protectorate, South African High Commission Territories, Straits Settlements, Tanganyika Territory, Trinidad and Tobago, Uganda Protectorate, Unfederated Malay States, Western Pacific (British Solomon Islands, Gilbert and Ellice Islands and Tonga), Zanzibar Protectorate … … … | August 25, 1932. |

([1]) Vol. CXXXII, page 292.