

(in Pakistan) and served as if they (were summonses) issued by such courts;

[Provided that the courts issuing such summonses (or processes) have been established or continued by the authority of the Central Government or that the Provincial Government (of the Province in which such summonses or processes are) to be served has by notification in the official Gazette declared the provisions of this section to apply to (such courts)].

ANNEXURE VII

LAW OF JAPAN

I. Enforcement of Foreign Judgments

With reference to the enforcement of foreign judgments, the provisions of Articles 200, 514 and 515 of the Code of Civil Procedure shall be applied.

Article 200. A foreign judgment which has become final and conclusive shall be valid only upon the fulfilment of the following conditions:

- (1) That the jurisdiction of the foreign court is not denied in laws and orders or treaty;
- (2) That the defendant defeated, being a Japanese, has received service of summons or any other necessary orders to commence procedure otherwise by a public notice or has appeared without receiving service thereof;
- (3) That the judgment of a foreign court is not contrary to the public order or good morals in Japan;
- (4) That there is mutual guarantee.

Article 514. Execution based on the judgment of a foreign court may be carried out only when its lawfulness is pronounced by a judgment of execution by the Japanese court.

2. In regard to a suit demanding a judgment of execution, the District Court of the place, where the general forum of a debtor exists, shall have the jurisdiction and in case no general forum exists, the court which has jurisdiction over the suit against the debtor shall have the jurisdiction.

Article 515. A judgment of execution shall be rendered without inquiring into justifiableness of the decision.

2. A suit demanding a judgment of execution shall be turned down in the following cases:

- (1) When it is not certified that the judgment of a foreign court has become final and conclusive;

- (2) When the foreign judgment does not fulfil the requirements as prescribed in Article 200.

II. Service of Process and Recording of Evidence

With reference to the service of summons issued by foreign courts and the recording of evidence required in foreign judicial proceedings in both civil and criminal cases, the provisions of the Law relating to the Reciprocal Judicial Aid to be given at the Request of Foreign Courts shall be applied.

Article 1. (1) A court shall, at the request of a foreign court, render judicial aid in serving papers or taking evidence in connection with cases on civil or criminal matters.

The said judicial aid shall be given by the District Court which has jurisdiction over the place where the required proceedings are to take place.

(2) The said judicial aid shall be rendered under the following conditions:

- (i) The request shall be made through the diplomatic channel.
- (ii) The request for the service of papers shall be made in writing stating the name, nationality, and domicile or residence of the person on whom the papers are to be served.
- (iii) The request to take evidence shall be made in writing stating the names of the parties to the litigation, the manner in which the evidence is to be taken, the name, nationality, and domicile or residence of the person to be examined, and the matters to be investigated. In regard to criminal matters, the request shall be accompanied by a statement of the essential facts of the case.
- (iv) In case the Letter of Request and documents annexed thereto are not written in the Japanese language, a translation thereof into Japanese shall be appended to the original.

- (v) The State to which the court making the request belongs shall guarantee the payment of the expenses incurred in the execution of the Letter of Request.
- (vi) The State to which the court making the request belongs shall assure that it could render judicial aid in the same or similar matters if so requested by the Japanese courts.

In case where treaties or other documents of similar nature provide otherwise than as mentioned in the preceding paragraphs, such provision shall prevail.

Article 2.

In case the execution of the Letter of Request falls within the jurisdiction of a court other than that to which the request has been made, the latter shall transfer the same to the proper court.

Article 3.

The Letter of Request shall be executed in accordance with the laws of Japan.

ANNEXURE VIII

LAW OF THE UNITED ARAB REPUBLIC

I. Execution of Foreign Judgments

Code of Procedure for Civil and Commercial Matters

Article 491.

The execution of judgments and orders delivered in a foreign country may be ordered on the same conditions required by the law of such country for the execution therein of Egyptian judgments and orders.

Article 492.

The order of execution may be requested by serving in the usual form a writ of summons on the adverse party to appear before the First Instance Tribunal in the circumscription of which the execution shall take place.

Article 493.

The order of execution may be delivered only after making sure of the following:—

- (1) that the judgment or order is delivered by a judicial body which is competent under the law of the country in which it has been delivered and that under the said law it has become a judgment or order at law.
- (2) that the parties were regularly served with writ of summons to appear and has been legally represented.
- (3) that the judgment or order is not in contradiction with a judgment or order already delivered by Egyptian courts.
- (4) that the judgment or order is not contrary to morality or public policy in Egypt.

Article 495.

The Tribunal shall decide upon the request for an order of execution as soon as possible.

Article 496.

The execution of executory official deeds drawn up in a foreign country may be ordered on the same conditions required by the law of such country for the execution of executory official deeds drawn up in Egypt.

The order of execution may be requested by an application submitted to the duty judge of the First Instance Tribunal in the circumscription of which the execution shall take place.

The order of execution may be delivered only after making sure the conditions required by the law in which the deed has been drawn up are fulfilled and that such deed contains nothing contrary to morality and public policy in Egypt.

Article 497.

The above mentioned provisions are applicable without prejudice to the provisions of conventions concluded or which shall be concluded between Egypt and other countries in this respect.

II. Service of Process

Writ of summons and rogatory commission from foreign tribunals are carried out in the Egyptian region according to international practice and on a reciprocity basis.

ANNEXURE IX
LAW OF NIGERIA

Extracts from "Groundwork of Nigerian Law" by T.O. ELIAS

Foreign Judgments

The principles relating to the reciprocal enforcement of foreign judgments in Nigerian courts and *vice versa* are contained in certain local enactments the chief of which is the Foreign Judgments (Reciprocal Enforcement) Ordinance¹. This provides for the registration of judgments of superior courts of foreign countries which accord substantial reciprocity of treatment to the enforcement of judgments of superior courts of Nigeria. A foreign judgment, other than one given on appeal, is so registrable if

- (a) It is final and conclusive as between the parties to it (a judgment is deemed to be final and conclusive even though an appeal is pending against it or although it may be subject to appeals in the courts of the country of the original court); and
- (b) There is payable under it a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty; and,
- (c) It is given after this Ordinance has come into force.²

The procedure is that the judgment creditor may apply for registration to any superior court of Nigeria at any time within six years after the date of the judgment or of the last judgment (where there has been an appeal in the foreign court). The Nigerian court will then order such judgment to be registered, unless at the date of the application (i) it has been wholly satisfied, or (ii) it could not be enforced by execution in the country of the original court. If the foreign judgment has been partly satisfied, only the balance due can be registered for enforcement in Nigeria.

The effects of registration are that

- (1) A registered judgment has, for purposes of execution, the same force and effect as one delivered in Nigeria;

¹ No 48 of 1935 (cap. 73 of 1948 edition of *The Laws*).

² S. 3.

- (2) Legal proceedings may be taken on it;
- (3) The amount for which a judgment is registered carries interest; and
- (4) The registering court has the same control over its execution as it has over any of its own judgments, though execution cannot issue on such a judgment until it is settled that no one can ask for it to be set aside.³

On a judgment debtor's application, the registering court may set aside a judgment if it is satisfied that

- (i) The judgment does not come under the provisions of this Ordinance; or
- (ii) The foreign country had no jurisdiction over the subject-matter of the judgment; or
- (iii) The judgment debtor did not receive notice of those proceedings and so did not defend, or appear in, them; or
- (iv) The judgment was obtained by fraud; or
- (v) Its enforcement would be contrary to the public policy in Nigeria; or
- (vi) The rights under the judgment are not vested in the applicant for registration; or
- (vii) The judgment was in respect of a dispute which had already been finally and conclusively determined by another court having jurisdiction in the foreign country; or
- (viii) An appeal is pending or the judgment debtor is entitled and intends to appeal against the judgment. (But here, the registering court may decide merely to postpone registration until the question of such appeal has been satisfactorily disposed of).

A foreign court is said to have jurisdiction—

- (a) In the case of a judgment given in an action *in personam*⁴;

³ S. 4.

⁴ An action *in personam* does not include any matrimonial cause or matter, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy, or guardianship of infants. S. 2(2).

- (i) If the judgment debtor had voluntarily and fully submitted, or had before the commencement, agreed to submit, to its jurisdiction; or
- (ii) If the judgment debtor was plaintiff in, or counter-claimed in, the proceedings before it; or
- (iii) If the judgment debtor was at the time when proceedings were instituted resident, or had his office or place of business, in the country of that court.

(b) In the case of a judgment given in an action of which the subject-matter was immovable property or in an action *in rem* of which the subject-matter was movable property—if the property in question was at the time of the proceedings in the original court situate in the country of that court; or

(c) If, in a case not falling under (a) or (b), the jurisdiction of the foreign court is otherwise recognised by the law of the registering court.

But no foreign court will be regarded as having had jurisdiction (i) if the subject-matter of the proceedings was immovable property outside the country of the original court, or (ii) if, with certain exceptions, the bringing of the proceedings in the foreign court was in breach of a prior agreement to settle the dispute otherwise than by proceedings in the courts of the country of that court, or (iii) if the judgment debtor was entitled to diplomatic immunity from the jurisdiction of the foreign court and had not submitted to it.⁸

It is important to remember that no proceedings for the recovery of a sum payable under a foreign judgment, other than proceedings by way of registration of such judgment, can be entertained by any court in Nigeria. The implication of this is that anyone wanting to sue for payment of any money due to him by virtue of a foreign judgment must in the first place register the whole judgment itself. It is only after such registration that he can ask a Nigerian court to assist him to enforce any payment due under it.⁹

⁸ S. 4(1), (X), and (3).

⁹ S. 8.

The foregoing provisions apply to Her Majesty's dominions outside Nigeria⁷ and to judgments obtained in their courts as they apply to foreign countries and their courts.⁸

The judgments of such foreign courts as satisfy the requirements of reciprocity are recognised in any Nigerian court as conclusive between the parties to them in all proceedings founded on the same cause of action. This is so, whether it can be registered or not, and whether, if it can be registered, it is registered or not. But no recognition will be accorded to a registered foreign judgment the registration of which has been set aside on some ground other than (a) that a sum of money was not payable under the judgment; or (b) that the judgment had been wholly or partly satisfied; or (c) that at the date of application for registration the judgment could not be enforced by execution in the country of the original court.⁹

The Governor has power to order that recognition and enforcement of judgments of a foreign country be refused in the courts of Nigeria if such foreign country does not grant full reciprocity to the judgments of superior courts in Nigeria. No proceedings can be entertained in any court in the country for the recovery of any sum alleged to be payable under a judgment obtained in any court of such foreign country.¹⁰

Any judgment creditor in a superior court of Nigeria, who is desirous of enforcing the judgment in a foreign country enjoying reciprocity with Nigeria, can apply to the court in which he obtained the judgment for a certified copy of it together with a certificate containing all necessary particulars.¹¹

Under the *Foreign Prisoners' Detention Ordinance*¹² persons sentenced to terms of imprisonment by any court of competent jurisdiction elsewhere than in Nigeria may, with the Governor's

⁷ The expression 'Her Majesty's dominions outside Nigeria' includes any British Protectorate or State and a Mandated (sic Trust) territory s. 9(3).

⁸ The Reciprocal Enforcement of Foreign Judgments Ordinance was repealed by s. 9(2) of the present Ordinance.

⁹ S. 10

¹⁰ S. 11

¹¹ S. 12

¹² Cap. 74 of 1948 edition of the *Laws of Nigeria*.

permission, be imprisoned and detained in Nigeria as if they were originally sentenced in Nigeria. But evidence of sentence and of the Governor's consent must be submitted to the Chief Secretary to the Government. Whereas the Foreign Judgments (Reciprocal Enforcement) Ordinance, just considered, deals with foreign countries as well as Her Majesty's dominions outside Nigeria, the present ordinance—Reciprocal Enforcement of Judgments Ordinance¹⁸—makes provisions for facilitating the reciprocal enforcement of judgments obtained in Nigeria and in the United Kingdom and other parts of Her Majesty's dominions and territories under Her Majesty's protection.

A judgment of the High Court in England or Ireland, or of the Court of Session in Scotland, may be registered in the Supreme Court in Nigeria at any time within twelve months after it has been given. To be so registrable, the judgment must not have been one in which—

- (a) The original court acted without jurisdiction; or
- (b) The judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court; or
- (c) The defendant was duly served with the process of the original court, and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court;
- (d) The judgment was obtained by fraud; or
- (e) The judgment debtor satisfies the registering court either that an appeal is pending, or that he is entitled and intends to appeal against the judgment; or
- (f) The judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the registering court.

The effect of registering a judgment is that it is treated for all purposes of execution as if it were a judgment of the Nigerian

¹⁸ Cap. 192 of the 1948 edition of *The Laws*.

Supreme Court. A certified copy of it is obtainable by the judgment creditor on proof by him that the judgment debtor is resident in the United Kingdom.

Any part of Her Majesty's dominions outside the United Kingdom that has made reciprocal provisions by legislation for the enforcement within its territory of judgments obtained in the Supreme Court of Nigeria may be ordered by the Governor to be treated on the same footing as the United Kingdom for purposes of recognition and enforcement of judgments.

Similarly, the Maintenance Orders Ordinance¹⁹ provides for the registration, confirmation and enforcement in Nigeria of orders (other than Affiliation Orders) made in England or Ireland for the periodical payments of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made. Orders made in Nigeria are equally enforceable in England or Ireland.

¹⁹ Cap. 125 of 1948; No. 8 of 1921.

ANNEXURE X

AGREEMENTS CONCLUDED UNDER THE AUSPICES OF LEAGUE OF ARAB STATES

1. RECIPROCAL ENFORCEMENT OF JUDGMENTS AGREEMENT¹

The Governments of:

The Hashemite Kingdom of Jordan,
 The Syrian Republic,
 The Kingdom of Iraq,
 The Kingdom of Saudi Arabia,
 The Lebanese Republic,
 The Kingdom of Egypt, and
 The Motawakilite Kingdom of Yemen

Desirous of facilitating, among their several States, the carrying out of the enforcement of judgments and in accordance with the provisions of Article 2 of the Pact of the Arab League, have agreed as follows:—

¹ A. Approval by the Council of the League of Arab States on September 14, 1952 during its Sixteenth Ordinary Session.

B. Signed by:

The Hashemite Kingdom of Jordan on the 17-2-1953
 The Lebanese Republic on the 18-2-1953
 The Syrian Republic on the 19-4-1953
 The Kingdom of Saudi Arabia on the 23-5-1953
 The Kingdom of Egypt on the 9-6-1953
 The Kingdom of Iraq on the 27-7-1953
 The Hashemite Kingdom of Jordan on the 28-7-1954

D. Reservations: The Motawakilite Kingdom of Yemen

1. With regard to paragraph (a) of Article 2, which reads thus:—
 "Yemen has no tribunals, at the present time, except Islamic Sharia Courts, competent in every law-suit."

2. With regard to paragraph (c) of Article 2 also, so worded:

"Non-execution of the judgment contrary to one of the common principles of Islamic Sharia Law".

Article I.

Any final judgment deciding civil or commercial rights or the payment of compensation by virtue of any sentence imposed by criminal courts, as well as judgments relating to personal status emanating from a competent court in any of the Member States of the Arab League, shall be executory in the other states of the League, in accordance with the provisions of this Agreement.

Article II.

The appropriate judicial authorities of the State, which are requested to execute the sentence shall not be allowed to investigate or review the subject matter of the case and shall not refuse execution of the judgment, except under the following circumstances:

- If the legal authority which rendered the judgment was not qualified to hear the case on account of lack of jurisdiction or because of prevailing principles of international law.
- If the parties concerned were not properly and duly summoned.
- If the judgment is contrary to the general order, or to the public policy of the State which is requested to carry out its execution. The said State shall decide whether the case is to be so considered, as also whether the execution of the judgment would be contrary to a recognised principle of international law.
- If the courts of the State, which is requested to carry out the execution, have already given judgment between the same parties on the same subject matter, or if a case is pending on the same subject and between the same parties, provided the said case had been instituted in the court of the requested State, prior to the date of its being instituted in the court of the requesting State, which gave verdict and asked for execution.

Article III.

With due consideration to Article I of this Agreement, the authorities who are requested to enforce execution are not entitled

to reconsider the award of arbitrators, which was given in any of the States of the League. However, request for execution may be refused in the following instances;

- (a) If the laws of the requested State do not admit the settlement of litigation by means of arbitration.
- (b) If the award given was not in pursuance of a valid arbitration agreement or any provisions thereof.
- (c) If the arbitrators were not qualified to act in pursuance of a conditional agreement of arbitration, or in accordance with the provisions of the law under which the award was given.
- (d) If the parties were not properly served with summons to appear.
- (e) If the arbitrators' award includes anything considered to be against general order or public morals in the State requested to carry out execution. The requested State shall decide whether the case is to be considered as such and may refuse execution.
- (f) If the arbitrators' award is not final in the State in which it was given.

Article IV.

The provisions of this Agreement shall not be applicable to any judgment issued against the Government of the requested State or any of its officers in his official capacity and in the course of the performance of his duties; nor shall they be applicable to judgments which are contrary to international treaties and agreements, in force in the requested State.

Article V.

Requests for execution should be supported by the following documents:—

1. A certified true copy of the judgment duly authenticated by the responsible authorities attested as being executory.
2. The original summons of service of the text of the judgment which is to be executed, or an official certificate to the effect that the text of the judgment had been served.

3. A certificate from a responsible authority to the effect that judgment is final and executory.
4. A certificate that the parties were duly served with summons to appear before the proper authorities or before the arbitrators in case the judgment or the award given was in default.

Article VI.

Judgments which are to be executed in any State of the League shall have the same legal validity as in the requesting State.

Article VII.

In any of the States of the League, nationals of the requested State shall not be asked to pay any fees, furnish any deposit, or produce any securities, which they are not required to do in their own country nor is it permitted to deprive them of legal aid or produce any securities, which they are not required to do in their own country, nor is it permitted to deprive them of legal aid or exemptions from legal fees.

Article VIII.

Each State shall designate the legal authority to which will be submitted all requests for execution, procedure and appeals against decisions taken in this respect. Communication of such designations shall be made to each of the other contracting States.

Article IX.

States, which shall have accepted this Agreement, shall ratify it in accordance with their own constitutional laws and processes, at the earliest possible date. Instruments of ratification shall be deposited with the Secretary General of the League, which shall draw up a protocol of the deposit of the instruments of ratification by each State to this Agreement and shall notify the contracting States thereof.

Article X.

States of the League, who have not signed this Agreement may accede thereto, by sending notice to this effect to the Secretary

General of the League, who shall notify the other signatories of such accession.

Article XI.

This Agreement will come into force a month from the date of the deposit of the instruments of ratification of three of the signatory States. For other States, it shall come into effect a month from the date of the deposit of their instruments of ratification or the notice of accession thereto.

Article XII.

Any of the States, bound by this Agreement, may withdraw therefrom by serving a notice to this effect upon the Secretary General of the League of Arab States. Withdrawal shall be effective after the lapse of six months from the date of such notice. However, the provisions of this Agreement will remain valid and binding for execution of demands submitted before the date of expiration of the notice so served.

In testimony whereof, the Plenipotentiaries, whose names follow, have signed this Convention on behalf of their Governments and in their names.

This Convention was drawn up, in Arabic, in Cairo on Monday Safar 22nd, 1372 (November 10th, 1952), in one copy to be kept with the Secretariat General of the League of Arab States. A true copy of the original shall be duly delivered to each signatory State and to adherent State.

For the Governments of:

The Hashemite Kingdom of Jordan: (signed) Awni Abdel Hadi.

The Syrian Republic: (signed) Mustapha Al Shehabi.

The Kingdom of Iraq: (signed) Neguib Al Rawi.

The Kingdom of Saudi Arabia: (signed) Abdallah Al Fadl.

The Lebanese Republic: (signed) Nadim Dimechkieh.

The Kingdom of Egypt: (signed) Mahmoud Fawzi.

The Motawakilite Kingdom of Yemen: (signed) El Sayed Ali Al Moayyad.

With the reservation entered in the protocol of signature.

II. AGREEMENT RELATING TO WRITS AND LETTERS OF REQUEST

The Governments of:

The Hashemite Kingdom of Jordan,

The Syrian Republic,

The Kingdom of Iraq,

The Kingdom of Saudi Arabia,

The Lebanese Republic,

The Kingdom of Egypt,

The Motewakilite Kingdom of Yemen,

Desiring, in the promotion of close collaboration between their respective States, to facilitate between them the service of writs and the carrying into effect of letters of request (commissions rogatoires), have agreed on the following:—

I. Notices (Notification).

Article 1

The service of documents and writs within the States of the Arab League, signatories of this Agreement, shall be in accordance with the provisions of Articles 2 and 4.

Article 2

Service shall take place in accordance with the procedure laid down in the laws of the State where service is required, provided

¹ A. Approved by the Council of the League of Arab States on September 14th, 1952, during its Sixteenth Ordinary Session.

B. Signed by:

The Hashemite Kingdom of Jordan on the 17-2-1953

The Lebanese Republic on the 18-2-1953

The Syrian Republic on the 19-4-1953

The Kingdom of Saudi Arabia on the 23-5-1953

The Kingdom of Egypt on the 9-6-1953

The Kingdom of Iraq on the 27-7-1953

The Motawakilite Kingdom of Yemen on the 28-11-1953

C. The instruments of ratification were deposited with the Secretariat General by:

The Kingdom of Saudi Arabia on the 5-4-1954

The Republic of Egypt on the 15-5-1954

The Hashemite Kingdom of Jordan on the 28-7-1954.

that where the State requesting service desires to have the service carried out in accordance with its own laws, such desire, unless it conflicts with the laws of the State where service is required, shall be accorded.

Article 3

Writs shall be transmitted through diplomatic channels, subject to the following:—

(a) The request must contain all information regarding the person to be served—his name, surname, occupation and place of residence—and two copies of the document required to be served shall be drawn up, one of which must be delivered to the person to be served and the other must be returned, signed by him or endorsed to the effect that service had been effected or that acceptance of service had been refused.

(b) The serving officer shall state, on the copy returned, the manner in which service was effected or the reasons for not effecting service.

(c) The State requesting service shall collect, for its own account, the fees due thereon in accordance with its own laws and no fees shall be collected in the State in which service is required.

Article 4

The State, in which service is required shall not object to such service being effected by the consulate of the country requesting service, within the limits of its jurisdiction, if the person to be served is a national of that State and where such service is so effected, the State in which it is effected shall bear no responsibility.

Article 5

Service effected in accordance with the Agreement shall be treated as if it had been effected in the territory of the State requesting service.

II. Letters of request

Article 6

Any State bound by this Agreement may request any other State party thereto, to proceed, on its behalf, in the territory of the

State receiving the request with any judicial proceeding connected with a pending case, in accordance with the provisions of the following two articles.

Article 7.

The letter of request shall be transmitted through diplomatic channels and effect shall be given in the following manner:

(a) The judicial authority concerned shall proceed to execute the request in accordance with the procedure in force, provided that where the State making the request desires to have it executed in some other way, such desire, unless it conflicts with the laws of the State giving effect to the request, shall be accorded.

(b) The authority making the request shall be notified of the place and time at which it shall be put into effect in order to permit the party interested to appear in person, if he so wishes, or to appoint someone to represent him.

(c) Where the request is in respect of a matter or proceeding which the law of the State to which the request is made does not permit effect to be given thereto or where it is not possible to fulfil the request, the State to which the request is made, shall so inform the State making the request, stating the reasons.

(d) The State to which the request is made shall bear the costs, with the exception of expert fees which shall be paid by the State making the request and of which a note shall be sent with the file of the letter of request, provided that the country to which the request is made may, on the documents produced at the hearing of the case, exact for its own account, the fees prescribed under its laws.

Article 8

A judicial proceeding, taken in compliance with a letter of request in accordance with the preceding provisions, shall have the same legal effect as if it had been taken before the competent authority in the State making the request.

Article 9

No claim shall be made against nationals of the State making the request in any of the States of the League, for fees, deposit or security for which the nationals of that State are not liable, nor shall they be deprived of the right which such nationals enjoy with regard to legal assistance or exemption from court fees.

Article 10

This Agreement shall be ratified by the signatory States in accordance with their respective constitutional processes at the earliest possible date. Instruments of ratification shall be deposited with the Secretariat General of the League of Arab States, which shall draw up a protocol of the deposit of ratification of each State and notify it to the other contracting States.

Article 11

States of the League, non-signatories of this Agreement, may accede thereto by notice to be sent to the Secretary General, who shall notify such accession to the other Contracting States.

Article 12

This Agreement shall come into force one month after the deposit of the instruments of ratification of three signatory States and shall be deemed binding with respect to the other States, one month after the deposit of their instruments of ratification or their accession thereto.

Article 13

Any State, bound by this Agreement, may, by notice to be sent to the Secretary General of the League of Arab States, withdraw therefrom. Such withdrawal shall take effect six months after the transmission of such notice, provided that this Agreement shall remain in force, with regard to writs required to be served and letters of request made before the expiry of the said period.

In testimony whereof, the Plenipotentiaries, whose names follow hereafter, have signed this Convention on behalf of their Governments and in their names.

This Convention was drawn up in Arabic, in Cairo, on Thursday, Safar 18th, 1372 (November 6th, 1952), in one copy to be kept with the Secretariat General of the League of Arab States. A true copy of the original was duly delivered to each of the signatory States of this Agreement or to the adherents thereto.

For the Governments of :

The Hashemite Kingdom of Jordan:

(Signed) Awni Abdel Hadi

The Syrian Republic: (Signed) Mustapha Al Shehabi

The Kingdom of Iraq: (Signed) Naguib Al Rawi

The Kingdom of Saudi Arabia:

(Signed) Abdallah Al Fadl

The Lebanese Republic: (Signed) Nadim Dimechkieh

The Kingdom of Egypt: (Signed) Mahmoud Fawzi

The Motawakilite Kingdom of Yemen:

(Signed) Al Sayed Ali Al Moayyad.

ANNEXURE XI

(A) EXCHANGE OF NOTES CONCERNING RECIPROCAL
JUDICIAL ASSISTANCE

BETWEEN

Denmark and Japan

Dated at Tokyo, July 16 and 23, 1936

Validity confirmed, August 11, 1952

Tokyo, July 16th 1936

Monsieur le Ministre,

With a view to facilitating the judicial procedure concerning cases in civil and commercial matters in Danish or Japanese courts, I have the honour, under instructions from my Government, to state as follows:

The Danish Government propose to institute, between the Danish and Japanese courts, mutual judicial aid on reciprocal terms regarding delivery of documents and taking of evidence in civil and commercial matters. If such mutual judicial aid be instituted, the expenses incurred in Danish or Japanese courts in the execution of judicial commissions shall be refunded by the Government of that country to which the court issuing such commission belongs.

The Danish Government will institute the above mentioned mutual judicial aid so soon as the Japanese Government agree to the above proposal.

In bringing forward the above proposal of my Government, I beg to request that your Excellency would be good enough to state whether the Japanese Government accept the same.

I avail myself of this opportunity to renew to your excellency the assurance of my highest consideration.

(Signed) Rud. Bertouch-Lehn.

His Excellency
Monsieur H. Arita,
Minister for Foreign Affairs
etc., etc., etc.

(Translation)

Tokyo, July 23rd 1936.

Monsieur le Ministre,

I have the honour to acknowledge the receipt of your Excellency's note of the 16th instant which reads as follows:—

"With a view to facilitating the judicial procedure concerning cases in civil and commercial matters in Danish or Japanese courts, I have the honour, under instructions from my Government, to state as follows:

The Danish Government propose to institute between the Danish and Japanese courts mutual judicial aid on reciprocal terms regarding delivery of documents and taking of evidence in civil and commercial matters. If such mutual judicial aid be instituted, the expenses incurred in Danish or Japanese courts in the execution of judicial commissions shall be refunded by the government of that country to which the court issuing such commission belongs.

The Danish Government will institute the above mentioned mutual judicial aid so soon as the Japanese Government agree to the above proposal.

In bringing forward the above proposal of my Government, I beg to request that your Excellency would be good enough to state whether the Japanese Government accept the same."

I beg to state that the above proposal of the Danish Government being in conformity with the stipulations of the Law No. 63 of the 38th Year of *Meiji* the Japanese Government accept the same and agree to institute on this date between the Japanese and Danish courts mutual judicial aid regarding delivery of documents and taking of evidence in civil or commercial matters.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) Hachiro Arita,
Minister for Foreign Affairs.

His Excellency
Baron Rudolph Bertouch-Lehn,
Envoy Extraordinary and Minister
Plenipotentiary of Denmark.

(B) EXCHANGE OF NOTES CONCERNING RECIPROCAL
JUDICIAL ASSISTANCE

BETWEEN CEYLON AND JAPAN

Dated at Tokyo, March 9 and 22, 1940

Notification of revival given, October 14, 1952

Revival published, December 13, 1952

Revived, January 14, 1953.

TOKYO, March 9th, 1940.

Your Excellency,

I have the honour to inform Your Excellency, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that the Government of Ceylon have expressed the desire to enter into an arrangement with the Imperial Japanese Government whereby the Courts of Justice in Japan and Ceylon should, within the limits prescribed by the laws of their country, render mutual assistance on a reciprocal basis in the transmission of documents and in the taking of evidence relating to civil and criminal cases.

2. The Government of Ceylon consider it appropriate that the proposed arrangement shall provide that any costs incurred in the execution of Letters of Request or other Judicial Commissions shall be refunded by the Government of the country to which the Court issuing such Commissions belongs.

3. The Government of Ceylon would further propose that it shall be understood that Letters of Request and documents connected with them shall be transmitted through the diplomatic channel, and that they shall be accompanied by translations in the official language of the country wherein the court to which they are addressed is situated.

4. I have the honour to inform Your Excellency that, should such an arrangement be agreeable to the Imperial Japanese Government, the Government of Ceylon would be pleased to bring it into force forthwith.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) R.L. Craigie.

His Excellency

Mr. Hachiro Arita,

His Imperial Japanese Majesty's
Minister for Foreign Affairs.

(Translation)

March 22nd, 1940.

Your Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note of the 9th March informing me of the desire of the British Government to enter into an arrangement whereby the Courts of Justice in Japan and Ceylon should, within the limits prescribed by the laws of either country, render mutual assistance on a reciprocal basis in the transmission of documents and in the taking of evidence relating to civil and criminal cases. The British Government further propose that any costs incurred in the execution of Judicial Commissions in rendering reciprocal judicial assistance shall be refunded by the Government of the country to which the Court issuing such commissions belongs, that Letters of Request and documents connected with them shall be transmitted through the diplomatic channel and that they shall be accompanied by translations in the language of the country wherein the court to which they are addressed is situated.

I have the honour to inform Your Excellency that the Imperial Government agree to the above proposals of the British Government and have decided, as from today, to commence mutual judicial assistance between the Courts of Justice in Japan and Ceylon, on a basis of reciprocity and within the limits prescribed by the laws of Japan, in the transmission of documents and in the taking of evidence relating to civil and criminal cases.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) Hachiro Arita

Minister for Foreign Affairs.

His Excellency

The Right Honourable

Sir Robert Craigie, K.C.M.G., C.B.,

etc., etc., etc.

ANNEXURE XII

(A) MODEL ACT RESPECTING THE RECOGNITION OF FOREIGN (MONEY) JUDGMENTS

(Adopted by the International Law Association at the Hamburg Conference held in 1960)

1. This Act may be cited as *The Foreign (Money) Judgments Act*.
2. This Act applies to the recognition of judgments in civil and commercial matters.
3. In this Act:—
 - (a) "foreign judgment" means a final judgment, decree or order or part thereof, made by a court of a foreign State whereby a definite sum of money is made payable, but does not include a sum made payable in respect of a tax or penalty;
 - (b) "final judgment" means one that is capable of being enforced in the State of the original court although there may still be open an appeal or other method of attack in that State;
 - (c) "original court" means the court by which the foreign judgment was given;
 - (d) "forum" means the court in which it is sought to enforce the foreign judgment;
 - (e) "judgment debtor" means the party against whom the foreign judgment was given.
4. A foreign judgment is recognised by the forum as conclusive and is enforceable between the parties and may be relied upon as a defence or counterclaim except where:—
 - (a) the original court lacked jurisdiction under Section 5; or
 - (b) the foreign judgment was given by default and the forum is satisfied that the judgment debtor, being the defendant, did not have notice of the proceedings in the original court in sufficient time to enable him to defend and did not appear; or

- (c) the original court denied natural justice, that is the foreign judgment was not rendered by an impartial tribunal or under a procedural system compatible with the requirements of due process of law; or
 - (d) the foreign judgment is based upon a cause of action which is contrary to the strong public policy (*ordre public international*) of the forum; or
 - (e) the foreign judgment is based upon cause of action which has formed the subject of another judgment between the same parties recognised as *res judicata* under the law of the forum; or
 - (f) the foreign judgment has been found by the forum to have been obtained by fraud.
5. (1) For the purposes of this Act the original court has jurisdiction when:—
- (a) the judgment debtor has voluntarily appeared in the proceedings for the purpose of contesting the merits and not solely for the purpose of
 - (i) contesting the jurisdiction of the original court, or
 - (ii) protecting his property from seizure or obtaining the release of seized property, or
 - (iii) protecting his property on the ground that in the future it may be placed in jeopardy of seizure on the strength of the judgment; or
 - (b) the judgment debtor has submitted to the jurisdiction of the original court by an express agreement; or
 - (c) the judgment debtor at the time of the institution of the proceeding ordinarily resides in the State of the original court; or
 - (d) the judgment debtor instituted the proceeding as plaintiff or counterclaimed in the State of the original court; or
 - (e) the judgment debtor, being a corporate body, was incorporated or has its seat (*siege*) in the State of the original court, or at the time of the institution of the

- proceeding there had its place of central administration or principal place of business there; or
- (f) the judgment debtor, at the time of the institution of the proceeding, has either a commercial establishment or a branch office in the State of the original court and the proceeding is based upon a cause of action arising out of the business carried on there; or
 - (g) in an action based on contract the parties to the contract ordinarily reside in different States and all, or substantially all, of the performance by the judgment debtor was to take place in the State of the original court; or
 - (h) in an action in tort (*delict or quasi-delict*) either the place where the defendant did the act which caused the injury, or the place where the last event necessary to make the defendant liable for the alleged tort (*delict or quasi-delict*) occurred, is in the State of the original court.
- (2) Notwithstanding anything in subsection (1), the original court has no jurisdiction:
- (a) in the cases stated in clauses (c), (e), (f) and (g) if the bringing of proceedings in the original court was contrary to an express agreement between the parties under which the dispute in question was to be settled otherwise than by a proceeding in that court;
 - (b) if by the law of the forum exclusive jurisdiction over the subject matter of the action is assigned to another court.
6. The bases for jurisdiction recognised in Section 5 are not exclusive and the forum may accept additional bases.
7. The forum shall, on terms that it thinks just, adjourn the hearing concerning the recognition of a foreign judgment when an appeal or other method of attack has been taken in the State of the original court, and may adjourn the hearing to allow the judgment debtor a reasonable opportunity for taking such action.

(B) PRINCIPLES ON RECOGNITION OF FOREIGN MONEY JUDGMENTS

(Adopted by the 48th Conference of the International Law Association)

(1) A final judgment for a sum of money rendered by a foreign court in the course of regular proceedings and through the impartial administration of justice shall be given conclusive effect, without the requirement of reciprocity, provided :

- (a) the original court had jurisdiction as specified under (2) and (3);
- (b) the judgment debtor was given reasonable notice and a reasonable opportunity to be heard;
- (c) the cause of action underlying the judgment does not violate the public policy of the forum;
- (d) the judgment debtor does not prove that the judgment was procured by fraud.

(2) The requirement of jurisdiction will be satisfied if :

- (a) the judgment debtor had submitted to the jurisdiction of the original court by an agreement valid under the law governing the validity according to the choice of law rules of the forum, or
- (b) the judgment debtor has voluntarily appeared in the proceeding, not solely for contesting the jurisdiction of the court or for protecting property located within the jurisdiction of the court, or
- (c) the judgment debtor had at the time of the beginning of the proceeding his habitual residence in the State of the original court or, being a corporate body, was incorporated or had its principal place of business in the State of the original court, or
- (d) the judgment debtor had a commercial establishment or a branch office in the State of the original court and is sued upon a cause of action arising out of the business there done.

(3) Provided the court applied to assumes jurisdiction under similar circumstances, the requirement of jurisdiction will also be satisfied (a) in an action in tort, if the place where the wrong was committed is in the State of the original court, (b) in an action based on contract, if the place of the making of the contract or the place where the contract is to be performed is in the State of the original court.

(4) These principles are not meant to suggest non-recognition by the court applied to of other bases of jurisdiction recognised by the court but not here listed, as, for example, personal service upon the defendant.

(5) An expeditious proceeding, in accord with due process of law, shall be available for the enforcement of foreign money judgments entitled to recognition.