The Hague Convention on International Access to Justice

Explanatory Documentation
prepared for
Commonwealth Jurisdictions

Commonwealth Secretariat

THE HAGUE CONVENTION ON INTERNATIONAL ACCESS TO JUSTICE

Explanatory documentation prepared
for Commonwealth Jurisdictions by
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with the Commonwealth Secretariat.

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INTRODUCTORY NOTE

This is the seventh in a series of "accession kits" being prepared by the Commonwealth Secretariat primarily to assist governments of Commonwealth countries in considering whether to accede to selected international conventions, especially in the field of private international law.

The first such paper examined The Hague Convention on The Service of Process, The Taking of Evidence and Legalisation. So far as the Service of Process Convention is concerned, it needs to be read with a paper entitled Information to accompany documents served abroad prepared by the Permanent Bureau of The Hague Conference and circulated to Commonwealth Governments by the Commonwealth Secretariat. That paper contains a suggested model form for use on all occasions on which documents are sent for service abroad, a form intended to be used in substitution for one of the documents annexed to the Convention.

The present paper is a review of the most recent Hague Convention in the same area of civil procedure. It contains the full English text of the Convention and recommendations and advice as to accession procedures.

Other papers in this series have examined

(a) International Conventions in the Field of Succession

(b) The Hague Convention on the Civil Aspects of International Child Abduction;

(c) International Conventions concerning Applications for and Awards of Maintenance;

(d) The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards

(e) Three International Conventions on Hijacking and Offences on board Aircraft.

These are still available from the Commonwealth Secretariat, which will endeavour on request to supply further information on points of detail.

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CHAPTER ONE

THE BACKGROUND TO THE CONVENTION

The Hague Conference on Private International Law has always taken a keen interest in the international aspects of civil procedure. Conventions dealing with such questions were prepared in 1896 and 1904, and when the Conference resumed its work after the Second World War a new Convention on Civil Procedure was concluded in 1954.

The 1954 Convention dealt with five matters: 1) the service of documents abroad; 2) the taking of evidence abroad; 3) security for costs; 4) the provision of legal aid; and 5) the question of imprisonment for debt. The first topic was again examined by the Hague Conference in 1964 and a Convention on the Service Abroad of Judicial and Extra-judicial Documents in Civil and Commercial Matters was signed in 1965. In 1968 there was a similar re-examination of the evidence provisions of the 1954 Convention, which led to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters of 1970. These two new Conventions, together with the related Convention Abolishing the Requirement of Legalisation for Foreign Public Documents 1961, were the subject of explanatory documentation published by the Commonwealth Secretariat in 1979. Currently (November 1981) thirteen Commonwealth countries are parties to one or other of these Conventions.

The fourteenth Session of the Hague Conference held in October 1980 turned its attention to the revision of the remaining chapters of the 1954 Convention on Civil Procedure. A number of reasons can be identified. The most obvious was a desire to complete the task of overhauling the 1954 text, but that statement obscures some more fundamental developments which made that task pressing. The whole question of international civil procedure is seen as of growing importance, not least because of the ending of the colonial period and the opening up of new trading relationships. The Hague Conference itself has a much greater awareness of, and contribution from, common law countries than in earlier decades; it can no longer rely on concepts, notably that of nationality, traditionally favoured by the European civil law states.

It was, however, the European members of the Hague Conference which had taken a series of initiatives - through the Council of Europe - on the topic of legal aid, which formed the most important chapter of the unrevised portion of the 1954 Hague Convention. The Council of Europe prepared its own European Agreement on the Transmission of Applications for Legal Aid, which was ratified by the United Kingdom in 1977, and which dealt, as its name suggests, with specifically procedural questions. The Committee of Ministers of the Council of Europe in 1976 and again in 1978 made recommendations on the more substantial question of the granting of legal aid or advice to those involved in international

litigation. These developments were influential, and were fully taken into account, at the Hague Conference's Fourteenth Session.

As a result that Session produced the Convention on International Access to Justice which forms the subject-matter of the present paper. It is suggested that the Convention deserves favourable attention from Commonwealth governments, for the following reasons:

(i) extensive trade and other links across international boundaries inevitably generate some litigation, and the retention of unnecessary obstacles to the just settlement of disputes cannot be defended;

(ii) the common law tradition already adopts most of the principles enshrined in this Convention by refusing to discriminate on grounds of nationality or residence where procedural matters are concerned;

(iii) by becoming parties to the Convention, common law countries can secure for their own people benefits which might otherwise be denied to them should they be involved in litigation in certain civil-law countries; and

(iv) in many cases, the Convention could be implemented without the need for legislation.

The remainder of this paper examines the provisions of the Convention, reproduces its text (in the English version; an equally authentic French text is also available), and offers some suggestions as to accession procedures.

CHAPTER TWO

LEGAL AID AND ADVICE

Introduction. It is important to appreciate that nothing in the Convention requires any country to introduce new forms of free legal aid or advice, or to alter the principles upon which financial contribution may be made to the cost of litigation or of legal advice. One country may have a highly developed system of free legal aid covering every type of court proceedings; another may be able to offer only a limited contribution to the cost of litigation in a narrowly-defined range of cases; each could become party to the Convention without altering its policies. The objectives of the Convention in its Chapter on Legal Aid may be defined as the removal of discrimination on grounds of nationality or residence in the operation of such legal aid schemes as exist and the improvement of facilities for transmitting requests for legal aid from one country to another.

Civil and commercial matters. The Convention is primarily concerned with legal aid "for court proceedings in civil and commercial matters". (Art. 1, para. 1.) It may be helpful to reproduce the comment on the phrase "civil and commercial matters" which appeared in the Explanatory Documentation on The Hague Conventions on The Service of Process, Etc. (Commonwealth Secretariat 1979):

> "This phrase is used in many Hague Conventions, dating back to 1905, and in all the U.K. bilateral conventions. It has never given rise to difficulties in practice under the latter conventions, but it is recognised that civil-law and common-law countries do have a different approach. A common law country will usually interpret the phrase to include almost anything which is not a criminal matter. Civil law countries have a different approach to the use of legal categories. They tend to make more use of a greater number of exclusive categories and would in some cases regard Public Law or Family Law or Fiscal Law as separate and distinct from Civil Law and Commercial Law. So, for example, a building contract between a government agency and a company might be regarded as falling outside the field of "civil and commercial matters" because of its "public law" content.
>
> This is a well-known problem, so deep-seated that it is insoluble except within a group of states such as those of the European community which has institutions (notably the Court of Justice) capable of developing a special "community" understanding of "civil and commercial" (see L.T.U. v Eurocontrol, decided by the Court in 1976).

Perhaps because it is such a well-known problem, there are few occasions on which the matter is allowed to hinder the working of the Conventions. This is certainly the case under the Service of Process Convention."

In the context of the present Convention the importance of the issue is much reduced by Article 1, para. 3, which provides that in States where legal aid is provided in administrative, social or fiscal matters, the provisions of Article 1 apply to cases brought before the courts or tribunals competent in such matters. (The 1954 Convention extended to administrative but not to social or fiscal matters.) Any difference of opinion as to whether a "social" matter, e.g. one relating to a claim for social security benefit, was or was not within the phrase "civil or commercial matter" is now immaterial; the case will certainly fall within Article 1 of the Convention, which is the only question of practical significance.

Court proceedings. Article 1 of the Convention is concerned with "legal aid for court proceedings". This, slightly awkward, phrase is a translation of the convenient French expression "assistance judiciaire". It includes legal aid in any relevant matters before a court, judge or tribunal; no magic attaches to the word "court". Similarly the legal aid to be granted may include the assistance of one or two counsel, of a solicitor, or may be restricted to certain fees and costs; as has already been stressed, the Convention is not concerned to define the type of provision that any country should make, but only to outlaw discrimination in its availability.

Although cases before tribunals are within the general term "courts", the matter is placed beyond doubt in Article 1, 3rd paragraph, which deals with administrative social and fiscal matters. The English text specifically mentions both "courts and tribunals"; the French word tribunaux covers both.

Non-discrimination. Legal aid schemes are naturally formulated with the needs of a country's own citizens and residents in mind. The basic principle of the Convention (Article 1, 1st paragraph) is that

(i) nationals of any Contracting State; and

(ii) persons habitually resident in any Contracting State

should be entitled to legal aid on the same conditions as if they were nationals of and habitually resident in the State granting legal aid.

So far as nationals of other Contracting States are concerned, the Convention merely confirms the established principle of the 1954 Convention. The inclusion of persons

habitually resident in any Contracting State was a major extension of the principle of non-discrimination, and it became evident in the course of discussions at The Hague that not all Member States of the Conference were ready to accept this extension; this was the case with a group of civil law countries led by France, whereas no common law jurisdiction felt any difficulty over the extension. The resulting compromise allows a State signing or acceding to the Convention to make a Reservation excluding persons whose link with another Contracting State is solely that of habitual residence, i.e. class (ii) above. (Article 28, first paragraph.) The Reservation can only apply if there is no reciprocity of treatment between the reserving State and the State of which the applicant for legal aid is a national; as by definition the latter State will not be a Contracting State of the present Convention any such reciprocity of treatment would have to be found under some other bilateral or multi-lateral agreement. It is, however, most unlikely that any common law country would wish to make any such Reservation, so the complexities of the matter need not be pursued.

Legal aid is also made available under the Convention to a limited but important class of persons who do not fall within the more general provisions. These are persons who were formerly habitually resident in a Contracting State and who are involved in current or pending litigation in that State based on a cause of action arising out of their former habitual residence in that State. It may be, for example, that a dispute arises as a person prepares to move his place of residence from one State to another, perhaps a claim for unpaid wages or a dispute with the purchaser of the house he is leaving. It was thought desirable to ensure that such a plaintiff enjoyed the benefits of the Convention. If the State to which he moved was itself a Contracting State there would be no difficulty; being habitually resident in such a State, he would be within Article 1, first paragraph. But if the new State of residence were not a Contracting State he might well be deprived of the right to legal aid; Article 1, second paragraph operates in such a case to preserve to him the benefits of the Convention. The same freedom to make a Reservation exists on this point as on that dealt with above (Article 28, first paragraph); as in the previous case, it is thought that common law jurisdictions will not wish to make any such Reservation.

Legal advice. In a number of States, facilities exist for free or subsidised legal advice to be given to those whose financial resources are such that they cannot afford the usual professional charges. This is quite distinct from legal "aid" which pre-supposes some litigation; all that is entailed is the giving of explanations and of suggestions for action falling short of litigation. In some countries the concept of legal advice may extend to the giving of limited practical assistance, in the drafting of a formal letter, or the completion of official forms. As in other

contexts it must be stressed that nothing in the Convention requires the introduction or modification of any such schemes; the Convention is concerned only with discrimination in their provision based on nationality or residence, discrimination which in practice seems already not to exist in practice.

Article 2 accordingly provides that legal advice is to be available on the same basis as legal aid, that is article 1 applies equally to legal advice, "provided that the person seeking advice is present in the State where the advice is sought". This proviso is important, for it means that the Convention does not entail the creation of elaborate machinery for giving legal advice by post across State boundaries with all the difficulties of communication and translation that might be involved. It deals only with the person present in the jurisdiction and in need (perhaps especially because he is an alien) of legal advice.

Machinery for legal aid. Articles 3 to 13 provide for machinery designed to assist those involved in litigation in another country to obtain the legal aid to which the Convention entitles them. The Convention uses the device of "Central Authorities" familiar from earlier Hague Conventions on Service of Process and Evidence. As is the case under those Conventions, a "Central Authority" does not have to be in any particular form, and the phrase is unfortunate insofar as it suggests anything elaborate or expensive. All that is required is an address, an office with which other Central Authorities can communicate. It is in Commonwealth practice commonly the Registry of the High Court or sometimes in the Ministry of Justice or of Foreign Affairs; the work will be carried out by an official as part of a much wider remit.

Receiving Central Authorities. Article 3 requires Contracting States to designate a Central Authority to receive, and take action on, applications for legal aid submitted under the Convention. Provision is made for Federal States and for other States which have more than one legal system (e.g. the United Kingdom) to designate more than one Central Authority, but that is optional.

Transmitting authorities. Previous Hague Conventions in this field have required the designation of Central Authorities only as receiving offices. In practice, those same Authorities have tended to be used as transmitting offices also; familiarity with Convention procedures, possession of the necessary forms, and knowledge of the practical snags in identifying and describing individuals and procedures under foreign legal systems, all make a combination of functions desirable. A receiving office is more likely to find the applications in order, and so capable of prompt and efficient execution, if they have been prepared by an officer with some experience of the system.

Accordingly, Article 4, first paragraph, requires the designation of "one or more transmitting authorities" whose function is to send the application for legal aid to the appropriate (receiving) Central Authority. The Convention does not require a State to designate the same office as Central Authority (for receiving requests) and as a transmitting authority, although this may well be general practice. Larger States may wish to decentralise the transmitting function for the convenience of applicants, and this they are able to do.

Communication between the authorities. The mode of communication established by the Convention is direct. A transmitting authority sends the documents directly to the relevant Central Authority, and no other agency is involved (see Article 4, second paragraph). This eliminates any need to sue consular or diplomatic channels, although Article 4, third paragraph preserves the right of transmitting States to use the diplomatic channel if they so require. As this would entail action not only by the embassy of the transmitting State but also by the Ministry of Foreign Affairs of the receiving State it is not likely to commend itself for general use; the object of the Convention is to produce simple, expeditious procedures.

Other modes of application. The expectation is that applications for legal aid under the Convention will (unless the applicant is already in the State in which he requires legal aid, in which case he will apply in the usual way) be made via a transmitting authority in the Contracting State in which the applicant has his habitual residence (Article 5, first paragraph). There are, however, two other possibilities:

(a) if the applicant does not reside in a Contracting State (but is entitled to legal aid, for example, because of his nationality of one such State) he may submit an application through consular channels (Article 9).

(b) in any case, it is open to a Contracting State to declare that its receiving Central Authority will accept applications submitted by other channels (e.g. the consular channel where the facts do not fall within the case just described) or by other methods (e.g. not using the prescribed forms). It is in fact difficult to envisage cases in which such a declaration would be advantageous except perhaps where two neighbouring States wish to adopt a simpler approach, enabling legal practitioners in the other State to approach the receiving Central Authority directly.

Form of application. Model forms are provided in the Annex to the Convention (which also contains, in Article 30, a procedure for amending the prescribed forms if their

revision is found to be desirable), and an application made via a transmitting authority must be in the model form. The forms are self-explanatory, and quite detailed information is required as to the financial means and obligations of the applicants. It is thought that the information will be sufficient to enable any necessary assessment to be made of the applicant's eligibility for assistance under a legal aid scheme which is in any way means-tested, but the receiving Central Authority can require further information in appropriate cases (Article 5, second paragraph). Item 21 in the Statement concerning the applicant's financial circumstances is perhaps a little obscure: "Real property (please state value(s) and obligations)". In this context "obligations" is the English term for the French charges, and the English term "charges" might well have been clearer; a mortgage, for example, would be noted here, the repayments being included in Item 23.

The transmitting authority is to assist the applicant in completing the forms and supplying necessary supporting documents (Article 6, first paragraph). All the papers must be in one of the official languages of the requested State, or, if it is not feasible to obtain such a translation in the requesting State, in English or French (Article 7). A Contracting State may by declaration specify other languages as acceptable to its Central Authority (Article 24) and may also make a Reservation (Article 28, second paragraph, item a) excluding the use of English, or French, or both. If a translation is required the transmitting authority must "assist the applicant in obtaining [such a translation] without charge ... where such assistance is appropriate" (Article 6, third paragraph). The meaning of the final phrase is not clear, but presumably such assistance will be needed by most applicants in cases where a translation is required. Given the option of using English where the relevant official language is one for which translations are not feasible, this set of provisions should not be unduly onerous for Commonwealth jurisdictions.

Further action by the transmitting authority. A transmitting authority is given the right, by Article 6 paragraph 2, of refusing to transmit an application which is "manifestly unfounded". This right is limited, for it refers only to the application for legal aid and not the underlying cause of action. It is the duty of the transmitting authority to ensure that the formal requirements of the Convention are met (Article 6, first paragraph) and it may be that the provision merely re-inforces this; until the application is in order, the authority can refuse to send it. The Form for Transmission of Application for Legal Aid contains spaces to be completed by the transmitting authority for "Remarks concerning the application and the statement, if any" and "Other remarks, if any". It would be possible to indicate here, for example, any reasons for the paucity of information in the accompanying Statement

of financial circumstances, or even any doubts entertained by the authority as to the applicant's good faith.

If any request is later received from the appropriate Central Authority for further information, it is the duty of the transmitting authority to reply (Article 6, fourth paragraph).

Action by the receiving Central Authority. Article 8 provides that the receiving Central Authority shall itself determine the application or take such steps as are necessary to obtain its determination by the competent authority. The latter is perhaps likely to be the more frequent; there will be machinery in the State for dealing with applications for legal aid, and the Central Authority will lay the application before the appropriate body.

If the Authority finds that further information is required or if other difficulties arise it is to communicate with the transmitting authority; and will similarly notify that authority of the outcome of the application (Article 8, second paragraph). All such communications will normally be in one of the official languages of the requested State, but if the application was sent in English or French (because the language of the requested State was unfamiliar), the communications in reply must also be in either English or French (Article 7, paragraph 3).

The Convention contains a general provision that applications should be handled expeditiously (Article 12).

Fees and charges. Translation costs will be borne in the country in which they are incurred (Article 7, paragraph 4). No other charges arise under the Convention, either in respect of the transmission and reception of the application or in respect of its eventual determination (Article 11). No form of legalisation is required (Article 10).

Subsequent proceedings. Article 13 contains two distinct provisions which apply once an application for legal aid has been made under the Convention and the application has succeeded. The first concerns later procedural steps in the relevant litigation. If any documents have to be served upon a defendant or other person in another Contracting State, or if Letters of Request are issued or social enquiry reports sought in such other Contracting State, no charges are to be levied, except for fees paid to experts or interpreters (Article 13, first paragraph). It is thought unlikely that fees would normally be required in such cases, but if local legislation does so provide exemptions would have to be granted.

The second provision concerns the steps which may have to be taken in another Contracting State to obtain recognition or enforcement there of a judgment obtained

in the initial proceedings. To avoid tedious delays it is provided in Article 13, second paragraph, that once the original applicant has been granted legal aid in a Contracting State he shall be entitled to legal aid in another Contracting State where he seeks to obtain such recognition or enforcement. Although this provision is obviously of advantage to the plaintiff, it can cause difficulties for the governments concerned. In the case of means-tested schemes, it is difficult to operate the rule: it seems that an applicant once given some financial assistance in one Contracting State will be entitled to completely free legal aid in all other Contracting States in which he seeks recognition or enforcement of the judgment, and whatever the likelihood of success in those subsequent proceedings. With the support of delegates from common law countries, the authors of the Convention agreed to permit a reservation excluding Article 13, second paragraph, and it is anticipated that Commonwealth jurisdictions would wish to make such a reservation.

CHAPTER THREE

SECURITY FOR COSTS AND ENFORCEABILITY OF ORDERS FOR COSTS

Introduction. Articles 14 to 17 (which form Chapter II of the Convention) deal with security for costs, often referred to by its Latin title cautio judicatum solvi. The requirement of security for costs is well-established in common law jurisdictions. It might be helpful to reproduce the relevant passage from Dicey and Morris, The Conflict of Laws (10th Edition, 1980), which sets out the position in England. In the passage which follows all footnotes have been omitted.

> "Order 23, rule 1(1) of the Rules of the Supreme Court provides that where, on the application of the defendant, it appears to the court that the plaintiff is ordinarily resident out of the jurisdiction, then if, having regard to all the circumstances of the case, the court thinks it just to do so, it may order the plaintiff to give such security for the defendant's costs as it thinks just.
>
> This power of the High Court is in origin inherent and dates back to the middle of the eighteenth century. Its justification is that 'if a verdict is given against the plaintiff he is not within reach of our law so as to have process served upon him for the costs.' There is no question of any discrimination against plaintiffs on grounds of nationality, for the test is ordinary residence, not nationality or even domicile. Thus a plaintiff of foreign nationality who is resident within the jurisdiction is not bound to give security for costs, but an English plaintiff ordinarily resident outside the United Kingdom may be ordered to do so.
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> Under Order 23, rule 1(1), which in its present form dates from 1962, the court has an unfettered discretion whether or not to order security for costs. There is no longer an inflexible rule that a plaintiff ordinarily resident abroad must give security, as there was in all cases before 1920 and in all but a few specified cases between 1920 and 1962. Thus it seems likely that cases decided before 1962 in which security was refused would still be followed, but that cases decided before 1962 in which security was ordered may no longer be safe guides.
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> No order will usually be made if one of several co-plaintiffs resides in England, unless such a co-plaintiff is added for the purpose of evading such an order. An order can be made if the plaintiff goes to live abroad after the issue of the writ, and can include past as well as future costs. No order will be made if the plaintiff lives abroad in an official capacity, but it can be made against a foreign sovereign.

No order will be made if the plaintiff shows that he has substantial property within the jurisdiction which could be made available to satisfy any order as to costs.

The fact that the plaintiff is compelled to take proceedings in England, e.g. because of a submission to arbitration or of an English jurisdiction clause in a contract, is not a sufficient reason for not ordering him to give security. On the other hand, since the passing of the Judgments Extension Act 1868 [which deals with the enforcement in England of Scottish and Northern Irish judgments] it is no longer the practice to require plaintiffs ordinarily resident in Scotland or Northern Ireland to give security, because an order for costs could easily be enforced against them under that Act. But this does not apply to plaintiffs resident in countries to which Part II of the Administration of Justice Act 1920 or Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 has been extended by Order in Council [including a large number of Commonwealth jurisdictions] because procedure for enforcing judgments under those Acts is quite different from what it is under the Act of 1868: it is not automatic, but involves putting a judicial officer in motion and may be the subject of dispute and even of trial between the parties. Where the plaintiff is resident in such a country, the court will exercise its discretion; the fact that the country concerned is a member of the European Community may be taken into account as a factor weighing against the making of an order. ...

International conventions are progressively reducing the number of cases in which security for costs can be ordered. The Hague Convention on Civil Procedure 1954 (to which the United Kingdom is not a party) prohibits such orders as against nationals of other contracting states. Although Article 7 of the Treaty of Rome which prohibits discrimination on grounds of nationality has been held not to strike at the English practice, Article 45 of the EEC Convention on the Enforcement of Judgments (which the United Kingdom has not yet ratified) forbids the requirement of security from a party in one contracting state seeking the enforcement of a judgment in another such state on the ground of his nationality, domicile or residence. Similar provisions are found in the bilateral conventions negotiated by the United Kingdom with countries to which the Foreign Judgments (Reciprocal Enforcement) Act 1933 is extended. Security for costs is also prohibited by some of the international conventions on transport and the United Kingdom legislation giving effect to them. The Carriage by Railway Act 1972 prohibits the making of such orders in cases governed by the Berne Conventions on the Carriage of Goods and of Passengers and Luggage by Rail or by the Additional Convention to the latter. The Carriage of Goods by Road Act 1965 makes similar provision in respect of cases falling within the Geneva Convention of 1956,

and the Carriage of Passengers by Road Act 1974 (when it is brought into force) will have the same effect in relation to cases within the Geneva Convention of 1973. The Paris, Brussels and Vienna Conventions on Third Party Liability in the Field of Nuclear Energy each contain a general provision that 'this Convention shall be applied without any discrimination based on nationality, domicile or residence,' which would seem to exclude the usual English practice as to security for costs."

The position, therefore, is that in England, and, it is thought, in the great majority of Commonwealth jurisdictions, the practice of requiring security for costs is well established, even in cases involving other Commonwealth countries. It does involve discrimination based on the factor of residence, and justified on practical grounds. Although numerous international conventions limit the practice, few have Commonwealth parties.

The Convention proposals. Article 14 of the Convention outlaws the requirement of security for costs based on the plaintiff's foreign nationality, domicile or residence, where the plaintiff is habitually resident in a Contracting State; other "parties intervening" are also covered. This principle is quite out of line with Commonwealth practice, and it is believed that most Commonwealth jurisdictions will wish to take advantage of the right conferred by Article 28, second paragraph, item c, to make a Reservation excluding the application of Chapter II of the Convention (Articles 14 to 17).

Before doing so, however, Governments would wish to consider the full content of Articles 15 to 17, which are designed to meet the point of the need for some security. Although the traditional form of security is outlawed, the Convention requires Contracting States to render enforceable in their jurisdiction without charge any order for the payment of costs made against any person exempted by the Convention from giving such security. Articles 16 and 17 establish machinery, using the transmitting authority/ Central Authority system for forwarding such orders for enforcement.

It has to be said, however, that actual security for costs is much more advantageous to the defendant than an order for costs, even one capable of legal enforcement in the country in which the unsuccessful plaintiff resides. Legal enforceability does not necessarily lead to enforcement in fact, and this factor is certainly a disincentive when abandonment of the traditional Commonwealth practice is being suggested.

Constitutional points. It was pointed out at The Hague that in some countries, especially those with a federal constitution, the vesting of the discretion as to security for costs in the courts (especially the courts of a State or other unit of the Federation) was an additional difficulty in the way of accepting the Convention proposals on this matter.

CHAPTER FOUR

OTHER PROVISIONS OF THE CONVENTION

Introduction. The Convention contains three further substantive Articles, between them forming two "Chapters" of the Convention, dealing with three other aspects of civil procedure, the first being about copies of entries and decisions and the second about physical detention and the third about safe-conduct.

Copies of entries and decisions. Article 18 concerns copies of or extracts from entries in public registers (e.g. birth, marriage and death certificates, or entries in registers relating to companies or business names) and decisions relating to civil or commercial matters (e.g. court orders). Each country has its own procedures and scale of fees for obtaining such documents, and nothing in Article 18 requires any change in those rules. What Article 18 does, however, is to outlaw discrimination, by requiring that nationals of and persons habitually resident in any Contracting State may obtain such documents on the same terms and conditions as local citizens; and that such persons may have the documents legalised, if necessary. The Convention does not speak on the question of the charges to be levied.

Physical detention. Article 19 deals with imprisonment for debt or in other contexts of a civil and commercial nature; it does not cover any criminal cases at all. Such civil imprisonment is becoming increasingly rare in practice, and it is difficult to envisage any Commonwealth jurisdiction in which the rules would discriminate on grounds of nationality or habitual residence. Such discrimination has been found in some other countries, notably Surinam and formerly the Netherlands. It is outlawed by Article 19.

Safe-conduct. The provisions on this matter, which appear in Article 20, proved extremely controversial at The Hague and were strongly opposed by delegates from common law countries. A reservation can be made under Article 28, second paragraph, item d, excluding the application of Article 20, and it is thought that Commonwealth countries would wish to, and indeed some would be constitutionally required to, exercise that right of reservation.

The principle of Article 20 is that a witness in proceedings in a Contracting State, who is required either by the court or by a party to the proceedings acting with the leave of the court (even if this leave is formal, e.g. the issue of a witness summons through the court office) to attend in person, should be granted immunity from arrest and prosecution in respect of criminal offences committed

before his arrival for the purposes of giving evidence. This would apply to all crimes, from minor motoring offences to terrorism and high treason.

The Article contains detailed provisions as to the length of time for which the safe-conduct remains valid, but the principle appears objectionable. It is probably unnecessary, given the existence of other procedures (including The Hague Convention on the Taking of Evidence, Letters of Request, etc.) for taking evidence abroad. It could raise constitutional points, especially in countries whose consitutional documents give independence to a Director of Public Prosecutions or similar official. It would certainly be politically controversial. For all these reasons, a Reservation on the point will commend itself.

CHAPTER FIVE

ACCESSION AND IMPLEMENTATION

Signature or accession. States which are Member States of The Hague Conference may sign the Convention, and subsequently deposit an instrument of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands. Any other State may accede, the instrument of accession being deposited with the same Ministry. The detailed procedures and the periods of time after which ratification and accession become effective are specified in the Final Clauses of the Convention (Articles 31 to 36), which are self-explanatory.

Reservations. Before ratification or accession can be considered, important questions as to the permitted Reservations arise. Five Reservations are permitted:

(a) to exclude Article 1 insofar as it extends beyond the case of persons who are nationals of Contracting States. Such a Reservation would detract considerably from the value of the Convention, and although some civil law countries may feel the need to avail themselves of this right, Commonwealth countries are unlikely to do so;

(b) to exclude the use of English or French or both under Article 7, second paragraph. If such a Reservation is made by a State, other Contracting States can reciprocate. So although some Commonwealth jurisdictions might be tempted to exclude French, English being more to their convenience, this would prevent them from being able to make use of the French option in outgoing documents. Unless special factors apply, this Reservation will therefore not commend itself;

(c) to exclude the application of Article 13, second paragraph, which deals with the automatic right to legal aid for the purpose of obtaining recognition or enforcement of a judgment obtained with the help of legal aid provided under the Convention. Reasons have already been given why such a Reservation is desirable.

(d) to exclude the application of Chapter II (Security for Costs, etc.). Again, reasons have already been given why Commonwealth jurisdictions might be expected to make a Reservation of this type; and

(e) to exclude the application of Article 20 (safe-conduct); this also is a Reservation which many Commonwealth countries would wish to, or would be required by constitutional provisions, to make.

Notifications and declarations. Before ratifying or acceding to the Convention, Governments need to take a number of decisions as to the various notifications and declarations which may or must be made:

(a) as to Central Authorities and transmitting authorities

The Netherlands Foreign Ministry must be informed as to

(i) the Central Authority or Authorities designated under Article 3 to receive applications for legal aid;

(ii) the transmitting authorities designated under Article 4 to forward such applications;

(iii) unless Chapter II of the Convention (Security for Costs, etc.) is excluded by Reservation, the Central Authority or Authorities and the transmitting authorities designated for the purpose of processing orders for the payment of costs;

(b) as to modes of transmitting and receiving documents

The Netherlands Foreign Ministry must be informed if it is desired to make a declaration

(i) that a Central Authority will receive applications for legal aid by channels or methods other than those established under the Convention; it has already been suggested that such a declaration will seldom be advantageous (Article 5);

(ii) a similar declaration, to which similar considerations apply, in respect of applicants not residing in a Contracting State (Article 9);

(iii) unless Chapter II of the Convention (Security for Costs, etc.) is excluded by Reservation, a declaration that a Central Authority would not receive an application for enforcement of an order for costs directly from the person in whose favour the order was made (see Article 16, last paragraph): this is unlikely to be relevant to Commonwealth jurisdictions;

(c) as to acceptable languages

The Netherlands Foreign Ministry must be informed if it is desired to make a declaration

(i) that some language or languages other than those referred to in Article 7 (and Article 17 if Chapter II (Security for Costs, etc.) is not excluded by Reservation) is acceptable to its Central Authority (Article 24); or

(ii) in the case of States with more than one official language, each language being the official language of a part of the State, that a particular language should be used in addressing a Central Authority established for the relevant part of the State (Article 25);

(d) as to territorial extent

The Netherlands Foreign Ministry must be informed if it is desired to make a declaration

(i) limiting the effect of ratification or accession to only one or more of the units comprising a Federal or composite State (Article 26); or

(ii) extending the Convention to any territory for the international relations of which the ratifying or acceding State is responsible (Article 33).

Implementation. Provided that reservations are made excluding the operation of Article 13, second paragraph, Chapter II, and Article 20, it is believed that the Convention can be ratified or acceded to by most Commonwealth countries without legislation. In some countries it would be normal practice to pass legislation to give the Convention legal force, even if no change in substantive law were required; this could be done in simple form, with the English text of the Convention in a Schedule. The only other clause in such a Bill might be one extending any existing powers to make Rules of Court, though this will seldom be necessary. It should be noted that if the Reservations just mentioned are regarded as essential, that might need to be reflected in the form of any legislation; and is therefore an additional argument for avoiding legislation if that is not required.

Conclusion. In Chapter One of this paper the case for acceding to this Convention is developed, though this is subject to the desirability of several Reservations. In those Commonwealth countries which have not yet acceded to the Service of Process and Evidence Conventions (which an earlier paper reviewed), there would be clear advantages in considering the three conventions together, although the second would require legislation in most countries.

CONVENTION ON INTERNATIONAL ACCESS TO JUSTICE

The States signatory to this Convention,

Desiring to facilitate international access to justice,

Have resolved to conclude a Convention for this purpose and have agreed upon the following provisions –

CHAPTER I - LEGAL AID

Article 1

Nationals of any Contracting State and persons habitually resident in any Contracting State shall be entitled to legal aid for court proceedings in civil and commercial matters in each Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Persons to whom paragraph 1 does not apply, but who formerly had their habitual residence in a Contracting State in which court proceedings are to be or have been commenced, shall nevertheless be entitled to legal aid as provided by paragraph 1 if the cause of action arose out of their former habitual residence in that State.

In States where legal aid is provided in administrative, social or fiscal matters, the provisions of this Article shall apply to cases brought before the courts or tribunals competent in such matters.

Article 2

Article 1 shall apply to legal advice provided the person seeking advice is present in the State where advice is sought.

Article 3

Each Contracting State shall designate a Central Authority to receive, and take action on, applications for legal aid submitted under this Convention.

Federal States and States which have more than one legal system may designate more than one Central Authority. If the Central Authority to which an application is submitted is not competent to deal with it, it shall forward the application to whichever other Central Authority in the same Contracting State is competent to do so.

Article 4

Each Contracting State shall designate one or more transmitting authorities for the purpose of forwarding applications for legal aid to the appropriate Central Authority in the requested State.
Applications for legal aid shall be transmitted, without the intervention of any other authority, in the form of the model annexed to this Convention.
Nothing in this Article shall prevent an application from being submitted through diplomatic channels.

Article 5

Where the applicant for legal aid is not present in the requested State, he may submit his application to a transmitting authority in the Contracting State where he has his habitual residence, without prejudice to any other means open to him of submitting his application to the competent authority in the requested State.
The application shall be in the form of the model annexed to this Convention and shall be accompanied by any necessary documents, without prejudice to the right of the requested State to require further information or documents in appropriate cases.
Any Contracting State may declare that its receiving Central Authority will accept applications submitted by other channels or methods.

Article 6

The transmitting authority shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application. It shall ensure that formal requirements are met.
If it appears to the transmitting authority that the application is manifestly unfounded, it may refuse to transmit the application.
It shall assist the applicant in obtaining without charge a translation of the documents where such assistance is appropriate.
It shall reply to requests for further information from the receiving Central Authority in the requested State.

Article 7

The application, the supporting documents and any communications in response to requests for further information shall be in the official language or in one of the official languages of the requested State or be accompanied by a translation into one of those languages.

However, where in the requesting State it is not feasible to obtain a translation into the language of the requested State, the latter shall accept the documents in either English or French, or the documents accompanied by a translation into one of those languages.
Communications emanating from the receiving Central Authority may be drawn up in the official language or one of the official languages of the requested State or in English or French. However, where the application forwarded by the transmitting authority is in either English or French, or is accompanied by a translation into one of those languages, communications emanating from the receiving Central Authority shall also be in one of those languages.
The costs of translation arising from the application of the preceding paragraphs shall be borne by the requesting State, except that any translations made in the requested State shall not give rise to any claim for reimbursement on the part of that State.

Article 8

The receiving Central Authority shall determine the application or shall take such steps as are necessary to obtain its determination by a competent authority in the requested State.
The receiving Central Authority shall transmit requests for further information to the transmitting authority and shall inform it of any difficulty relating to the examination of the application and of the decision taken.

Article 9

Where the applicant for legal aid does not reside in a Contracting State, he may submit his application through consular channels, without prejudice to any other means

open to him of submitting his application to the competent authority in the requested State.
Any Contracting State may declare that its receiving Central Authority will accept applications submitted by other channels or methods.

Article 10

All documents forwarded under this Chapter shall be exempt from legalization or any analogous formality.

Article 11

No charges shall be made for the transmission, reception or determination of applications for legal aid under this Chapter.

Article 12

Applications for legal aid shall be handled expeditiously.

Article 13

Where legal aid has been granted in accordance with Article 1, service of documents in any other Contracting State in pursuance of the legally aided person's proceedings shall not give rise to any charges regardless of the manner in which service is effected. The same applies to Letters of Request and social enquiry reports, except for fees paid to experts and interpreters.

Where a person has received legal aid in accordance with Article 1 for proceedings in a Contracting State and a decision has been given in those proceedings, he shall, without any further examination of his circumstances, be entitled to legal aid in any other Contracting State in which he seeks to secure the recognition or enforcement of that decision.

CHAPTER II - SECURITY FOR COSTS AND ENFORCEABILITY OF ORDERS FOR COSTS

Article 14

No security, bond or deposit of any kind may be required, by reason only of their foreign nationality or of their not being domiciled or resident in the State in which proceedings are commenced, from persons (including legal persons) habitually resident in a Contracting State who are plaintiffs or parties intervening in proceedings before the courts or tribunals of another Contracting State.
The same rule shall apply to any payment required of plaintiffs or intervening parties as security for court fees.

Article 15

An order for payment of costs and expenses of proceedings, made in one of the Contracting States against any person exempt from requirements as to security, bond, deposit or payment by virtue of Article 14 or of the law of the State where the proceedings have been commenced shall, on the application of the person entitled to the benefit of the order, be rendered enforceable without charge in any other Contracting State.

Article 16

Each Contracting State shall designate one or more transmitting authorities for the purpose of forwarding to the appropriate Central Authority in the requested State applications for rendering enforceable orders to which Article 15 applies.
Each Contracting State shall designate a Central Authority to receive such applications and to take the appropriate steps to ensure that a final decision on them is reached.

Federal States and States which have more than one legal system may designate more than one Central Authority. If the Central Authority to which an application is submitted is not competent to deal with it, it shall forward the application to whichever other Central Authority in the requested State is competent to do so.
Applications under this Article shall be transmitted without the intervention of any other authority, without prejudice to an application being transmitted through diplomatic channels.
Nothing in this Article shall prevent applications from being made directly by the person entitled to the benefit of the order unless the requested State has declared that it will not accept applications made in this manner.

Article 17

Every application under Article 15 shall be accompanied by –

a a true copy of the relevant part of the decision showing the names and capacities of the parties and of the order for payment of costs or expenses;

b any document necessary to prove that the decision is no longer subject to the ordinary forms of review in the State of origin and that it is enforceable there;

c a translation, certified as true, of the above-mentioned documents into the language of the requested State, if they are not in that language.

The application shall be determined without a hearing and the competent authority in the requested State shall be limited to examining whether the required documents have been produced. If so requested by the applicant, that authority shall determine the amount of the costs of attestation, translation and certification, which shall be treated as costs and expenses of the proceedings. No legalization or analogous formality may be required.
There shall be no right of appeal against the decision of the competent authority except in accordance with the law of the requested State.

CHAPTER III - COPIES OF ENTRIES AND DECISIONS

Article 18

Nationals of any Contracting State and persons habitually resident in any Contracting State may obtain in any other Contracting State, on the same terms and conditions as its nationals, copies of or extracts from entries in public registers and decisions relating to civil or commercial matters and may have such documents legalized, where necessary.

CHAPTER IV - PHYSICAL DETENTION AND SAFE-CONDUCT

Article 19

Arrest and detention, whether as a means of enforcement or simply as a precautionary measure, shall not, in civil or commercial matters, be employed against nationals of a

Contracting State or persons habitually resident in a Contracting State in circumstances where they cannot be employed against nationals of the arresting and detaining State. Any fact which may be invoked by a national habitually resident in such State to obtain release from arrest or detention may be invoked with the same effect by a national of a Contracting State or a person habitually resident in a Contracting State even if the fact occurred abroad.

Article 20

A person who is a national of or habitually resident in a Contracting State and who is summoned by name by a court or tribunal in another Contracting State, or by a party with the leave of the court or tribunal, in order to appear as a witness or expert in proceedings in that State shall not be liable to prosecution or detention, or subjected to any other restriction on his personal liberty, in the territory of that State in respect of any act or conviction occurring before his arrival in that State.
The immunity provided for in the preceding paragraph shall commence seven days before the date fixed for the hearing of the witness or expert and shall cease when the witness or expert having had, for a period of seven consecutive days from the date when he was informed by the judicial authorities that his presence is no longer required, an opportunity of leaving has nevertheless remained in the territory, or having left it, has returned voluntarily.

CHAPTER V - GENERAL PROVISIONS

Article 21

Without prejudice to the provisions of Article 22, nothing in this Convention shall be construed as limiting any rights in respect of matters governed by this Convention which may be conferred upon a person under the law of any Contracting State or under any other convention to which it is, or becomes, a party.

Article 22

Between Parties to this Convention who are also Parties to one or both of the *Conventions on civil procedure* signed at The Hague on the 17th of July 1905 and the 1st of March 1954, this Convention shall replace Articles 17 to 24 of the Convention of 1905 or Articles 17 to 26 of the Convention of 1954 even if the reservation provided for under paragraph 2*c* of Article 28 of this Convention has been made.

Article 23

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, to the extent that they are compatible therewith, unless the Parties otherwise agree.

Article 24

A Contracting State may by declaration specify a language or languages other than those referred to in Articles 7 and 17 in which documents sent to its Central Authority may be drawn up or translated.

Article 25

A Contracting State which has more than one official language and cannot, for reasons of internal law, accept for the whole of its territory documents referred to in Articles 7 and 17 drawn up in one of those languages shall by declaration specify the language in which such documents or translations thereof shall be drawn up for submission in the specified parts of its territory.

Article 26

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify that declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 27

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance, or approval of, or accession to this Convention, or its making of any declaration under Article 26 shall carry no implication as to the internal distribution of powers within that State.

Article 28

Any Contracting State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right to exclude the application of Article 1 in the case of persons who are not nationals of a Contracting State but who have their habitual residence in a Contracting State other than the reserving State or formerly had their habitual residence in the reserving State, if there is no reciprocity of treatment between the reserving State and the State of which the applicants for legal aid are nationals.
Any Contracting State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right to exclude –

a the use of English or French, or both, under paragraph 2 of Article 7;

b the application of paragraph 2 of Article 13;

c the application of Chapter II;

d the application of Article 20.

Where a State has made a reservation –

e under paragraph 2*a* of this Article, excluding the use of both English and French, any other State affected thereby may apply the same rule against the reserving State;

f under paragraph 2*b* of this Article, any other State may refuse to apply paragraph 2 of Article 13 to persons who are nationals of or habitually resident in the reserving State;

g under paragraph 2*c* of this Article, any other State may refuse to apply Chapter II to persons who are nationals of or habitually resident in the reserving State.

No other reservation shall be permitted.

Any Contracting State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The reservation shall cease to have effect on the first day of the third calendar month after the notification.

Article 29

Every Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Kingdom of the Netherlands of the designation of authorities pursuant to Articles 3, 4 and 16.
It shall likewise inform the Ministry, where appropriate, of the following –

a declarations pursuant to Articles 5, 9, 16, 24, 25, 26 and 33;

b any withdrawal or modification of the above designations and declarations;

c the withdrawal of any reservation.

Article 30

The model forms annexed to this Convention may be amended by a decision of a Special Commission convoked by the Secretary General of the Hague Conference to which all Contracting States and all Member States shall be invited. Notice of the proposal to amend the forms shall be included in the agenda for the meeting.

Amendments adopted by a majority of the Contracting States present and voting at the Special Commission shall come into force for all Contracting States on the first day of the seventh calender month after the date of their communication by the Secretary General to all Contracting States.
During the period provided for by paragraph 2 any Contracting State may by notification in writing to the Ministry of Foreign Affairs of the Kingdom of the Netherlands make a reservation with respect to the amendment. A Party making such reservation shall until the reservation is withdrawn be treated as a State not a Party to the present Convention with respect to that amendment.

CHAPTER VI – FINAL CLAUSES

Article 31

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session and by non-Member States which were invited to participate in its preparation.
It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 32

Any other State may accede to the Convention.
The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.
Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the twelve months after the receipt of the notification referred to in sub-paragraph 2 of Article 36. Such an objection may also be raised by Member States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 33

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.
Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 34

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 31 and 32.
Thereafter the Convention shall enter into force –

1 for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calender month after the deposit of its instrument of ratification, acceptance, approval or accession;

2 for any territory or territorial unit to which the Convention has been extended in conformity with Article 26 or 33, on the first day of the third calendar month after the notification referred to in that Article.

Article 35

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 34 even for States which subsequently have ratified, accepted, approved it or acceded to it.
If there has been no denunciation, it shall be renewed tacitly every five years.
Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, at least six months before the expiry of the five year period.
It may be limited to certain of the territories or territorial units to which the Convention applies.
The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 36

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 32, of the following –

1 the signatures and ratifications, acceptances and approvals referred to in Article 31;

2 the accessions and objections raised to accessions referred to in Article 32;

3 the date on which the Convention enters into force in accordance with Article 34;

4 the declarations referred to in Articles 26 and 33;

5 the reservations and withdrawals referred to in Articles 28 and 30;

6 the information communicated under Article 29;

7 the denunciations referred to in Article 35.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the 25. day of October 1982, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session and to each other State having participated in the preparation of this Convention at this Session.

ANNEX TO THE CONVENTION

FORM FOR TRANSMISSION OF APPLICATION
FOR LEGAL AID

Convention on International Access to Justice, signed at The Hague, the .25th..of October 1982

Identity and address of the transmitting authority	Address of the receiving Central Authority

The undersigned transmitting authority has the honour to transmit to the receiving Central Authority the attached application for legal aid and its annex (statement concerning the applicant's financial circumstances), for the purpose of Chapter I of the above-mentioned Convention.

Remarks concerning the application and the statement, if any:

Other remarks, if any:

Done at ....., the .....

Signature and/or stamp

APPLICATION FOR LEGAL AID

Convention on International Access to Justice, signed at The Hague, the 25th of October 1982

1 Name and address of the applicant for legal aid

2 Court or tribunal in which the proceedings have been or will be initiated (if known)

3 *a* Subject-matter(s) of proceedings; amount of the claim, if applicable

b If applicable, list of supporting documents pertinent to commenced or intended proceedings*

c Name and address of the opposing party*

4 Any date or time-limit relating to proceedings with legal consequences for the applicant, calling for speedy handling of the application*

5 Any other relevant information*

6 Done at ....., the .....

7 Applicant's signature

* Delete if inappropriate

Annex to the application
for legal aid

Statement concerning the applicant's financial circumstances

I *Personal situation*

8 name (maiden name, if applicable)

9 first name(s)

10 date and place of birth

11 nationality

12 *a* habitual residence (date of commencement of the residence)

b former habitual residence (date of commencement and termination of the residence)

13 civil status (single, married, widow(er), divorced, separated)

14 name and first name(s) of the spouse

15 names, first names and dates of birth of children dependent on the applicant

16 other persons dependent on the applicant

17 supplementary information concerning the family situation

II *Financial circumstances*

18 occupation

19 name and address of employer or place of exercise of occupation

20 income	of the applicant	of the spouse	of the persons dependent on the applicant
a salary (including payments in kind)	.....	.....	.....
b pensions, disability pensions, alimonies, allowances, annuities	.....	.....	.....
c unemployment benefits	.....	.....	.....
d income from non-salaried occupations	.....	.....	.....
e income from securities and floating capital	.....	.....	.....
f income from real property	.....	.....	.....
g other sources of income	.....	.....	.....

21 real property	of the applicant	of the spouse	of the persons dependent on the applicant
(please state value(s) and obligations)	.....	.....	.....

22 other assets	of the applicant	of the spouse	of the persons dependent on the applicant
(securities, sharings in profits, claims, bank accounts, business capital, etc.)	.....	.....	.....

23 debts and other financial obligations	of the applicant	of the spouse	of the persons dependent on the applicant
a loans (state nature, balance to be paid and annual/monthly repayments)	.....	.....	.....
b maintenance obligations (state monthly payments)	.....	.....	.....
c house rent (including costs of heating, electricity, gas and water)	.....	.....	.....
d other recurring obligations	.....	.....	.....

24 income tax and social security contributions *for the previous year*

25 remarks of the applicant

26 if applicable, list of supporting documents

27 The undersigned, being fully aware of the penalties provided by law for the making of a false statement, declares that the above statement is complete and correct.

28 Done at ..... (place)

29 the ..... (date)

30 ..... (applicant's signature)

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