

Inter-American Convention on Jurisdiction in the International Sphere for the Extraterritorial Validity of Foreign Judgments

(НссН-Гаагская конференция по международному частному праву)

The Governments of the Member States of the Organization of American States,

DESIROUS of improving the administration of justice through greater judicial cooperation among the American States, and

CONSIDERING that, for the effective application of Article 2 (d) of the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards signed at Montevideo on May 8, 1979, provisions are necessary to prevent jurisdictional disputes among the States Parties,

HAVE AGREED to sign the following Inter-American Convention on Jurisdiction in the International Sphere for the Extraterritorial Validity of Foreign Judgments.

Article 1: For the purposes of the extraterritorial validity of foreign judgments, the requirement of jurisdiction in the international sphere is deemed to be satisfied when the judicial or other adjudicatory authority of the State Party that rendered the judgment would have had jurisdiction in accordance with any of the following provisions:

A. In an action in persona for a money judgment, any of the following bases or, if applicable, that provided for in section D of this article shall be satisfied:

1. At the time the action was initiated, the defendant, if a natural person, had his domicile or habitual residence in the territory of the State Party in which judgment was rendered or, if a juridical person, had its principal place of business in that territory;
2. In an action against a private non-commercial or business enterprise, the defendant had its principal place of business at the time the action was initiated in the State Party in which judgment was rendered or was organized in that State Party;
3. In an action against a branch, agency, or affiliate of a private non-commercial or business enterprise, the activities that gave rise to such action took place in the State Party in which judgment was rendered, or
4. In the case of non-exclusive fora permitting submission to other fora, the defendant either consented in writing to the jurisdiction of the judicial or other adjudicatory authority that rendered the judgment or, despite making an appearance, failed to submit a timely challenge to the jurisdiction of that authority.

B. In an action involving rights relating to tangible movable property, either of the following bases shall be satisfied:

1. The property was located, at the time the action was initiated, in the territory of the State Party in which the judgment was rendered, or
2. Any of the bases provided for in section A of this article is satisfied.

C. In an action involving property rights relating to immovable property, the property was located, at the time the action was initiated, in the territory of the State Party in which the judgment was rendered.

D. In an action arising from an international business contract, the parties agreed in writing to submit to the jurisdiction of the State Party in which the judgment was rendered, provided that such jurisdiction was not established in an abusive manner and had a reasonable connection with the subject matter of the action.

Article 2: The requirements for jurisdiction in the international sphere shall also be deemed to be satisfied if, in the opinion of the judicial or other adjudicatory authority of the State Party in which the judgment is to be given effect, the judicial or other adjudicatory authority that rendered the judgment assumed jurisdiction in order to avoid a denial of justice because of the absence of a competent judicial or other adjudicatory authority.

Article 3: In case of a judgment made on a counterclaim, the requirement of jurisdiction in the international sphere shall be deemed to be satisfied if:

1. One of the foregoing provisions would have been satisfied, had the counterclaim been brought as an independent action;
2. The principal claim satisfied one of the foregoing provisions and the counterclaim arose out of the transaction or occurrence on which the principal claim was based.

Article 4: The extraterritorial validity of the judgment may be denied if the judgment has infringed the exclusive jurisdiction of the State Party in which it is being invoked.

Article 5: Foreign judgments shall not have extraterritorial validity unless, in addition to being final and non-appealable, they are entitled to recognition and execution throughout the territory of the State Party in which they were rendered.

Article 6: This Convention shall apply only to the cases governed by the foregoing articles and shall not apply to the following subjects:

- a. Personal status and capacity of natural persons;
- b. Divorce, annulment, and marital property;
- c. Child support and alimony;
- d. Decedents' estates (testate or intestate);
- e. Bankruptcy, insolvency proceedings, composition with creditors, or other similar proceedings;
- f. Liquidation of business enterprises;
- g. Labor matters;
- h. Social security;
- i. Arbitration;
- j. Torts, and
- k. Maritime and aviation matters.

Article 7: The States Parties may declare that they will also apply this Convention to interlocutory rulings that discontinue proceedings, to the decisions of non-adjudicatory authorities that perform some adjudicatory function, and to judgments in penal proceedings ordering compensation for damages for wrongful action.

Article 8: The rules contained in this Convention shall not limit any broader provisions contained in bilateral or multilateral conventions among the States Parties regarding jurisdiction in the international sphere or more favorable practices in regard to the extraterritorial validity of foreign judgments.

Article 9: This Convention shall be open for signature by the Member States of the Organization of American States.

Article 10: This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 11: This Convention shall remain open for accession by any other State. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 12: A signatory State of the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards, signed in Montevideo on May 8, 1979, may, in addition, declare at any time that this Convention shall be applied to determine the jurisdiction in the international sphere referred to in Article 2 (d) of the aforesaid Convention.

If not made at the time of the signing of this Convention, and if not contained in the instrument of ratification or accession to this Convention, such declarations shall be transmitted to the General Secretariat of the Organization of American States, which shall notify the signatory States of the content of such declarations.

Article 13: This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 14: If a State Party has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them.

Such declaration may be modified by subsequent declarations, which shall expressly indicate the territorial unit or units to which this Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

Article 15: This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

Article 16: The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of its Charter. The General Secretariat of the Organization of American States shall notify the Member States of the Organization and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession and denunciation as well as of reservations, if any. It shall also transmit the declarations referred to in Articles 7, 12 and 14 of this Convention.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized thereto by their respective Governments, have signed this Convention.

DONE AT LA PAZ, Republic of Bolivia, on the twenty-fourth day of May, one thousand nine hundred and eighty-four.