

## TREATIES TO WHICH SPAIN IS A PARTY INVOLVING QUESTIONS OF PRIVATE INTERNATIONAL LAW, 1991

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This survey covers the treaties and other international agreements published in the *Boletín Oficial del Estado* (BOE — Official Journal of the State) during 1991. Its purpose is to record the legal consequences of such agreements and instruments for Spain, regarding aspects such as signature, ratification or accession, entry into force, provisional application, reservations or declarations, territorial application, personal sphere of application, material scope, termination, abrogation and relations with other treaties or agreements.

### I. SOURCES OF PRIVATE INTERNATIONAL LAW

### II. INTERNATIONAL JURISDICTION

— Convention signed 26 May 1989, in San Sebastian regarding the accession of the Kingdom of Spain and the Republic of Portugal to the Brussels Convention, signed September 1968, on jurisdiction and the enforcement of judgments in civil and commercial matters, and their accession to the Luxembourg Protocol signed 3 June 1971, on the interpretation of that Convention by the Court of Justice, with the amendments introduced by the Agreement dated 9 October 1978, related to the accession of Denmark, Ireland and the United Kingdom and by the Agreement of 25 October 1982, related to the accession of Greece.

Deposit of the Instrument of Ratification: 22 November 1990.

*Entry into force*: 1 February 1991.

(BOE n. 24, 28.1.91 and BOE n. 103, 30.4.91 [s.e.]).

## III. PROCEDURE AND JUDICIAL ASSISTANCE

— Convention for legal cooperation in civil matters between Spain and Brazil, Madrid 13 April 1989.

*Entry into force:* 31 July 1991.

(*BOE* n. 164, 10.7.91 and *BOE* n. 193, 13.8.91 [s.e.]).

*Note:* Some of the articles says as follows:

*“Article 1. Jurisdictional cooperation.*

1. The States party to the agreement pledge to concede to each other the broadest jurisdictional cooperation in civil, commercial, labour and administrative matters.

2. The Ministries of Justice of the two States, as figures of Central Authority, will transmit and receive requests for jurisdictional cooperation, and will forward them to the appropriate body for their enforcement.

3. Consular officials will continue to have the authority attributed to them by international treaties to which both State are parties.

*Article 2. Letters rogatory.*

Under article 1, each State will have the power to transmit the letters rogatory produced in legal proceedings that are covered by this Convention to the judicial authorities charged with their enforcement.

*Article 3.*

The judicial and extrajudicial documents regarding matters that are covered by this Convention can be processed:

- a) Through communication between the Ministries of Justice or
- b) Through direct remission by the authorities and officials of the complainant State to the Ministry of Justice of the respondent State.
- c) Through diplomatic channels.

*Article 30. General provisions.*

In matters related to this Convention, the documents that are issued by the judicial authorities or other authorities of one of the contracting States, as well as the documents that accredit their authenticity and the date, the authenticity of the signature or proof of the document being a true copy of the original, will be exempt from legalization, apostille or any analogous formalities when they are to be presented in the other State.

*Article 38.*

No provision of the present Convention can be interpreted in any way that would present an obstacle to the application of the Vienna Convention on consular relations”.

— Exchange of Notes between Spain and the Dominican Republic on the entry into force of the 27 June 1929 Convention between the United Kingdom and the Kingdom of Spain on mutual assistance in civil and commercial procedures, Kingston, 5 and 18 June 1991.

*Entry into force:* 5 July 1991.

(*BOE* n. 239, 5.10.91).

#### IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS AND DECISIONS

— Convention between the Kingdom of Spain and the State of Israel for the mutual recognition and enforcement of judgements in civil and commercial matters, Jerusalem, 30 May 1989.

*Entry into force:* 13 January 1991.

(*BOE* n. 3, 3.1.91 and *BOE* n. 20, 23.1.91 [s.e.]).

*Note:* Some of the articles says as follows:

*“Article 1.*

1. Any judgement handed down in a civil or commercial matter by the judicial system of one of the Parties will be recognized and enforced in the territory of the other Party regardless of the nature of the jurisdictional body and will be subject to the provisions that are established in this Convention.

2. .../...

3. This Convention will not be enforced in cases having to do with the following matters:

a) The civil status or legal capacity of natural persons, or family law, including cases on property rights derived from marriage, wills or inheritances;

b) Bankruptcy, winding-up of companies or others insolvent bodies corporate or unincorporate, agreements between the bankrupt party and the creditors or any analogous proceedings;

c) Social Security and state subsidized health care;

d) Arbitration;

e) Tax restitution or charges of a similar nature, or fines or other monetary sanctions, or any matter having to do with the Public Administration; and

f) Compensation for damages caused by nuclear energy.

4. In spite of the conditions established in paragraph 3a, this Convention will be applied to judgements related to the obligation to provide foodstuffs”.

— Convention on the accession of the Kingdom of Spain and the Republic of Portugal to the Brussels Convention of 27 September 1968, on jurisdiction and the enforcement of judgements in civil and commercial matters, San Sebastian, 26 May 1989.

*Note:* See above, II (*BOE* n. 24, 28.1.91 and *BOE* n. 103, 30.4.91 [s.e.] )

— Withdrawal of the reservation to article 12 of the European Convention on the recognition and enforcement of decisions in matters of the child custody and the reestablishment of said custody, Luxembourg, 20 May 1980.

— Announcement from the *Secretaría General Técnica* (Technical Secretariat) of the Ministry of Foreign Affairs, 21 March 1991.

Effects of the withdrawal: beginning 15 February 1991.

(*BOE* n. 80, 3.4.91)

— Convention between the Kingdom of Spain and the Government of the United States of Mexico on the recognition and enforcement of judgements and arbitration awards in civil and commercial matters, Madrid, 17 April 1989.

*Entry into force:* 30 April 1991.

(*BOE* n. 85, 9.4.91, *BOE* n. 108, 6.5.91 [s.e.] and *BOE* n. 226, 20.9.91 [s.e.] ).

*Note:* Some of the articles say as follows:

“Article 2. Scope.

This Agreement will apply to judgements and arbitration awards issued by one of the Contracting States in civil and commercial cases that fulfill the conditions provided for in titles IV and V of this Agreement.

Article 3.

The following do not fall within the scope of this Agreement:

1. Tax, customs or administrative matters.

2. The following matters:

a) Status or legal capacity of natural persons.

b) Divorce, annulment, or matrimonial property.

c) Support obligations.

d) Wills and succession.

- e) Bankruptcy, winding up compositions and other similar collective insolvency proceedings.
- f) Liquidation of corporations.
- g) Labour issues.
- h) Social Security and state subsidized health care.
- i) Damages or injury caused by nuclear power.
- j) Torts.
- k) Maritime or aviation matters.

*Article 23. General Provisions.*

The rules of this Agreement will not affect or restrict the provisions included in other bilateral or multilateral agreements established between the Contracting Parties in matters of recognition and enforcement of foreign judgements and arbitration awards, nor will it affect the preferential treatment given by contracting parties to the extraterritorial effects of such judgements or awards in their municipal law”.

— Convention for judicial cooperation in civil matters between Spain and Brazil, Madrid 13 April 1989.

*Note:* See above, III (*BOE* n. 164, 10.7.91 and *BOE* n. 193, 13.8.91 [s.e.]).

About recognition and enforcement of judgements, transactions, arbitration awards and other enforceable documents the Convention says:

*“Article 15.*

1. The judgements issued by the Courts of a contracting party in civil, commercial or labour matters will be recognized and enforced in the other State, in accordance with the provisions of this agreement.
2. The term “judicial decision” will include judgements, judicial transactions that are no longer subject to ordinary forms of review in the state of origin, rulings, orders or any other similar resolution.
3. Decisions issued in acts of voluntary jurisdiction will all be included.
4. Likewise, penal judgements for crimes that have civil consequences fall within the scope of the agreement.

*Article 16.*

The following matters will be excluded from article 15, and their recognition and enforcement will be regulated by the domestic Law of each State:

- a) The status and legal capacity of natural persons and family rights in judgements that establish or declare such status or those rights, and this without prejudice to the decisions on monetary obligations that are the consequence of that declaration, in accordance with the provisions of the following article.

- b) Child and minor support obligations.
- c) Succession.
- d) Bankruptcy, winding up or similar proceedings.
- e) Social security.
- f) Damages or injury due to nuclear power.

*Article 28.* Evidentiary weight and enforcement of enforceable documents with executive power.

Enforceable documents formalized before an official of a contracting State will have the same evidentiary weight in the other State as documents formalized in that State”.

## V. INTERNATIONAL COMMERCIAL ARBITRATION

— Convention between the Kingdom of Spain and the Government of the United States of Mexico regarding the recognition and enforcement of judgements and arbitration awards in civil and commercial matters, Madrid, 17 April 1989.

*Note:* See above, IV (*BOE* n. 85, 9.4.91, *BOE* n. 108, 6.5.91 [s.e.] and *BOE* n. 226, 20.9.91 [s.e.]).

— Convention on legal cooperation in civil matters between Spain and Brazil, Madrid, 13 April 1989.

*Note:* See above, III (*BOE* n. 164, 10.7.91 and *BOE* n. 193, 13.8.91 [s.e.]).

## VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

## VII. ALIENS, REFUGEES AND CITIZENS OF THE EUROPEAN COMMUNITY

— Entry into force of the Exchange of Notes between Spain and Switzerland dated 9 August and 31 October 1989, regarding the administrative condition of citizens of other States after five years of regular and uninterrupted residency in the territory of another State.

Announcement made by the *Secretaría General Técnica* (Technical Secretariat) of the Ministry of Foreign Affairs: 17 December 1990.

*Entry into force:* 26 November 1990.  
(BOE n. 3, 3.1.91).

— Entry into force of the Exchange of Notes between the Kingdom of Spain and the United States of Mexico regarding the abolition of diplomatic visas, Madrid, 17 April 1989.

Announcement made by the *Secretaría General Técnica* (Technical Secretariat) of the Ministry of Foreign Affairs: 10 January 1991.

*Entry into force:* 31 December 1990.  
(BOE n. 16, 18.1.91).

— Exchange of Notes between the Kingdom of Spain and the Czech and Slovak Federation on the abolition of visas, Madrid, 12 December 1990.

*Provisional application:* beginning 15 December 1990.

(BOE n. 36, 11.2.91).

*Entry into force:* 30 April 1992.

(BOE n. 93, 17.4.92).

— Agreement between the Government of the Kingdom of Spain and the Government of the People's Republic of China regarding the abolition of visas in diplomatic passports, Madrid, 26 February 1991.

*Provisional application:* beginning 8 March 1991.

(BOE n. 121, 21.5.91)

— Exchange of Notes between the Kingdom of Spain and Norway regarding recognition of Norwegian citizens' right to vote in local elections in Spain and Spanish citizens' right to vote in Norway, Madrid, 6 February 1990.

*Entry into force:* 1 April 1991.

(BOE n. 153, 27.6.91).

*Note:* Conditions under which Norwegian citizens may exercise registered on the right to vote in Spanish local elections:

1. Norwegian citizens can only exercise the right to vote in local elections.
2. Only those in possession of a Spanish residency permit will be allowed to vote.
3. Only those having resided in Spain legally and without interruption for more than three years will be allowed to vote.
4. Only those who are residents of the local district in which they wish to vote and who are duly registered in the Municipal Census will be allowed to vote.

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5. It is the responsibility of any foreign national residing in Spain who wishes to exercise his/her right to vote to present a formal written request to be included on the voting lists. This request will be presented to the appropriate officials at the Town Hall of the local district in which the foreign resident is registered on the census. The deadline for the presentation of the request will be set for each election.

6. The electoral lists of Norwegian citizens residing in Spain will be published only upon the occasion of said elections.

— Exchange of Notes between Spain and Sweden regarding recognition of Swedish citizens' right to vote in local elections in Spain and Spanish citizens' right to vote in Sweden, 6 February 1990.

*Entry into force:* 1 April 1991.

(BOE n. 153, 27.6.92).

*Note:* The conditions under which Swedish citizens can exercise the right to vote in Spanish local elections are the same as those provided for in the Exchange of Notes with Norway, 6 February 1990 quoted in the previous paragraph.

— Exchange of Letters between the Kingdom of Spain and Canada for the reciprocal concession of licenses for radio amateurs, Madrid, 10 December 1990 and 18 April 1991.

*Entry into force:* 17 June 1991.

(BOE n. 169, 16.7.91)

*Note:* Spanish or Canadian citizens in possession of a license to be amateur radio operators issued by the appropriate authorities in their country can obtain the equivalent license from the corresponding authorities in the other country to operate a ham radio station in its territory based on the concept of reciprocity and in accordance with the conditions established in this Agreement.

Any Spanish or Canadian ham radio operator who obtains a license in accordance with the conditions established by this Agreement will be required to obey the laws in effect regarding this matter in the country in which he operates and also the Rules of Radio Communication of the International Telecommunication Union, dated 6 December 1979.

— Protocol on Spain's accession (signed in Bonn on 25 June 1991) to the Convention between the States of the BENELUX Economic Community,



the Federal Republic of Germany and the Republic of France regarding the gradual abolition of common border controls, signed in Schengen 14 June 1985, and amended by the Protocol of Accession of the Republic of Italy, signed in Paris on 27 November 1990.

*Provisional application:* beginning 26 June 1991.

(BOE n. 181, 30.7.91).

— Exchange of Notes between Kingdom of Spain and the Republic of Hungary regarding the abolition of visas, Madrid, 12 June 1990.

*Provisional application:* beginning 20 July 1990.

(BOE n. 222, 15.9.90).

*Entry into force:* 31 August 1991.

(BOE n. 215, 7.9.91).

*Repeal:* The entry into force of this Convention will nullify the Convention on the abolition of diplomatic visas between the Kingdom of Spain and the Republic of Hungary dated 7 June 1989.

— Exchange of Notes between the Kingdom of Spain and Morocco regarding the waiver of fees for visas, Rabat, 15 July 1991.

*Provisional application:* beginning 15 July 1991.

(BOE n. 220, 13.9.91 and BOE n. 250, 1.10.91 [s.e.]).

— Agreement between the Kingdom of Spain and the Republic of Hungary regarding mutual recognition of academic certificates and degrees, Budapest, 9 November 1989.

*Entry into force:* 3 September 1991.

(BOE n. 240, 7.10.91).

*Note:* The academic degrees that the Contracting States mutually recognize are: 1. The *érettségi* from the Hungarian educational system and the *título de Bachiller* from the Spanish educational system; 2. The academic degree of *Oklevél* from the universities of the Republic of Hungary and the academic degrees of *Licenciado* (university graduate), *Ingeniero* (engineer) and *Arquitecto* (architect) from the universities in the Kingdom of Spain that are awarded in either country for the degree programs listed in Annexes 1 and 3. The academic degree of “University Doctor” (*Doctor universitatis*) awarded by the Universities of the Republic of Hungary and the academic degree of “Doctor” given by the universities in the Kingdom of Spain in the scientific disciplines listed in Annex II.

— Exchange of Notes between the Kingdom of Spain and the United States of America regarding the amendment to the Convention of 21 January 1952,

and the Exchange of Notes of 11 May and 5 July 1963, regarding the abolition of visas, Madrid, 16/17 September 1991.

*Provisional application*: beginning 1 October 1991.

(BOE n. 257, 26.10.92).

*Note*: The *Amendment* says:

“The aforementioned Agreement of 21 January 1952, and the Exchange of Notes of 11 May and 5 June 1963, are hereby amended by the Spanish Government to extend, on a reciprocal basis, the exemption from obtaining visas to citizens of the United States who hold diplomatic or official passports who are on private trips to Spain whether it be for leisure or business, or in transit, for a period of ninety (90) days”.

— Agreement regarding the recognition or validation of certificates of study, degrees, diplomas, or academic degrees between the Kingdom of Spain and the United States of Mexico, Madrid 10 June 1985.

*Entry into force*: 7 October 1991.

(BOE n. 264, 4.11.91)

*Note*: The *Annex 2* says as follows:

“II.

A. In the Kingdom of Spain, the studies corresponding to primary education, secondary education and college preparatory courses completed in the United States of Mexico and accredited by duly legalized official documents will be recognized in accordance with the scale of equivalencies specified in Annex I.

B. In the United States of Mexico, the studies denominated Educación General Básica (primary school), Bachillerato Unificado Polivalente (secondary school) and Curso de Orientación Universitaria (college preparatory course) completed in the Kingdom of Spain and accredited by duly legalized official documents will be recognized in accordance with the scale of equivalencies specified in Annex I.

III. The studies, diplomas and degrees corresponding to secondary education that are not specified in the scale included in Annex I will be recognized or validated by the Parties in accordance with the general provisions that regulate these issues in the receiving State.

IV. The degrees, diplomas and levels which correspond to Higher Education or University will be recognized or validated in accordance with the scale of equivalencies that is mutually agreed to. In order to do so, both Parties will provide information about *curricula* for the different levels of studies and different majors”.

VIII. ALIENS, REFUGEES AND CITIZENS OF EUROPEAN COMMUNITY

IX. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME

X. FAMILY LAW

— Withdrawal of the reservation to article 12 of the European Convention as regards the recognition and enforcement of decisions in matters of child custody and the reestablishment of said custody, Luxembourg, 20 May 1980.

*Note:* See above, IV (BOE n. 80,3.4.91).

XI. SUCCESSION

XII. CONTRACTS

— United Nations Convention on contracts for the International Sale of Goods, Vienna, 11 April 1980.

*Deposit of the Instrument of Accession:* 24 July 1990.

*Entry into force:* 1 August 1991.

(BOE n. 26, 30.1.91)

XIII. TORTS

— Protocol signed in Paris 16 November 1982, modifying the Convention of 31 January 1983, complementary to the Paris Convention of 29 July 1960, on civil responsibility in matters of nuclear energy, amended by the additional Protocol of 28 January 1964.

*Deposit of the instrument of ratification:* 19 September 1988.

*Entry into force:* 1 August 1991.  
(BOE n. 257, 26.10.91).

#### XIV. PROPERTY

##### 1. Intellectual property

— International Convention on the protection of interpretative or performing artists, record producers and broadcasting authorities, Rome, 26 October 1961.

*Deposit of the instrument of ratification:* 12 August 1991.

*Entry into force:* 14 November 1991.

(BOE n. 273, 14.11.91).

*Note:* Reservations:

*“Article 5.*

The Government of Spain declares that, in accordance with section 3 of article 5 of the Convention, the ‘first publication’ criterion will be set aside and the ‘first recording’ criterion will be followed.

*Article 6.*

The Government of Spain declares that, in accordance with section 2 of article 6 of the Convention, it will only protect broadcasts when the legal residence of the broadcaster is located in the territory of the other Contracting State and when the broadcast was transmitted from a station located in the territory of the same Contracting State;

*Article 16.*

The Government of Spain, in accordance with paragraph 1 of article 16 of the Convention, declares the following as regards article 12 of the same:

Firstly, in accordance with the provisions of paragraph 1 section a), subsection iii), of article 16 of the Convention, the provisions of article 12 will not be applied to any record whose producer was not a citizen of one of the Contracting States.

Secondly, the Spanish Government declares that in cases in which the producer of a record is a citizen of another Contracting State, the scope and duration of the protection provided for in article 12 will be the same as they would be in the Contracting State as regards records recorded for the first time by Spanish citizens in accordance with the provisions of paragraph 1 Section a), subsection iv) of article 15 of this same Convention”.

## **2. Industrial Property**

— Convention between the Kingdom of Spain and the Republic of Hungary on reciprocal protection of certificates of origin, the denominations of certain agricultural and industrial products, and indications as to the point of origin of a product, Budapest, 22 December 1987.

*Entry into force:* 7 November 1991.

(*BOE* n. 18, 21.1.91 and *BOE* n. 89, 13.4.92 [s.e.]).

*Note:* Article 7 of this Convention says as follows:

“This Convention will not affect the obligations derived from the Parties’ participation in other international agreements or arrangements that have already been signed. As regards agreements and arrangements that might be concluded in the future, they will not be allowed to violate the terms of this Convention”.

## **XV. COMPETITION LAW**

## **XVI. INVESTMENTS AND FOREIGN EXCHANGE**

— Convention between Spain and the Union of Soviet Socialist Republics on the reciprocal promotion and protection of investments, Madrid, 26 October 1990, (*BOE* n. 391, 17.12.91)

*Note:* See: Section on Treaties involving Questions of Public International Law.

— Agreement between the Kingdom of Spain and the Czech and Slovak Federation on the reciprocal promotion and protection of investments, Madrid, 12 December 1990 (*BOE* n. 33, 7.2.92).

*Note:* See. Section on Treaties involving questions of Public International Law.

## **XVII. FOREIGN TRADE LAW**

— Protocol for the Accession of Spain (Bonn, 25 June 1991) to the Agreement between the States of the BENELUX Economic Community, the

Federal Republic of Germany and the French Republic, on the gradual abolition of shared border controls, signed in Schengen, 14 June 1985, and as amended by the Protocol for the Accession of the Republic of Italy, signed in Paris on 27 November 1990.

*Note:* See above VIII, (BOE n. 181, 30.7.91).

— Amendments to Annexes 2, 6 and 7 to the Customs Convention on the international transport of goods covered by TIR carnets, put into circulation by the Secretary General of the United Nations on 26 March 1990, Geneva, 14 November 1975.

Declaration issued by the Ministry of Foreign Affairs: 24 July 1991.

*Entry into force:* 1 August 1991.

(BOE n. 186, 5.8.91).

## XVIII. BUSINESS ASSOCIATION CORPORATIONS

## XIX. BANKRUPTCY

## XX. TRANSPORT LAW

*Note:* See Section on Treaties involving Questions of Public International Law.

## XXI. LABOUR LAW AND SOCIAL SECURITY

— Administrative Convention for the application of the Social Security Convention between the Kingdom of Spain and Switzerland dated 13 October 1969, and the additional Protocol of 11 June 1982, Berne, 19 April 1990.

*Entry into force:* 1 August 1990, according to the provisions of the attached Exchange of Notes.

*Repealed:* Article 35.2. The Administrative Convention dated 27 October 1971, which establishes the terms and conditions related to the application of the Social Security Convention between Spain and Switzerland agreed to

on 13 October 1969, is repealed as soon as the mentioned Convention enters into force.

(BOE n. 25, 29.1.91).

— Convention number 164 of the General Conference of the I.L.O. (International Labour Organization) on preventative health measures and medical assistance to seamen, dated 8 October 1987.

Deposit of the Instrument of Ratification: 3 July 1987.

*Entry into force*: 3 July 1991.

(BOE n. 18, 21.1.91).

— Convention number 166 of the General Conference of the I.L.O. on the repatriation of seamen, dated 9 October 1987, which revises Convention number 23 dating from 1926.

Deposit of the Instrument of Ratification: 3 July 1990.

*Entry into force*: 3 July 1991.

(BOE n. 18, 21.1.91).

— Denunciation of article 8 (4)(b) of the European Social Charter regarding the prohibition of the employment of women in underground mining jobs and in any other jobs not appropriate for women due to their dangerous, hazardous or physically demanding nature.

Announcement issued by the *Secretaría General Técnica* (Technical Secretariat) of the Ministry of Foreign Affairs, 6 May 1991.

*Effects of the denunciation*: Beginning 5 June 1991.

(BOE, n. 112, 10.5.91).

— Convention on Social Security between the Kingdom of Spain and Australia and an Administrative Convention for its application, Canberra, 10 February 1990.

*Entry into force*: 3 June 1991.

(BOE n. 139, 11.16.91).

*Note*: Some articles says as follows:

“Article 2. Physical scope.

1. Subject to the provisions of Section 2, this Convention will be applied to the following statutes which had been completely updated at the time the agreement was signed, and to any other statute that at a later date would modify, complement or substitute those already in effect:

a) As regards Australia: The Social Security Act of 1947 and what the Act establishes in relation the following services:

(i) Old age pensions.

- (ii) Disability pensions.
  - (iii) Pensions for a wife.
  - (iv) Pensions for the care of a spouse.
  - (v) Widows' pensions.
- b) As regards Spain, legislation on the General and Specific Guidelines governing the Social Security System as regards the following types of services:
- i) Temporary disability benefits for workers in cases of common illness, maternity leave or non-work related accidents.
  - (ii) Disability.
  - (iii) Old Age.
  - (iv) Death and survivors benefits.
  - (v) Unemployment compensation.

2. In spite of the terms of Section 1, Australian legislation will not include any statute adopted before or after the signing of this Convention that would make effective any bilateral Convention on Social Security signed by either of the two Parties. 3. This Convention is applicable to the statutes that develop the rules laid down by one of the Parties as to the creation of new categories of beneficiaries only if both Parties agree to a Protocol to be attached to this Agreement.

*Article 3. Personal scope.*

This Convention will apply to any person who:

- a) is or has been a resident of Australia, or
- b) is or has been subject to Spanish legislation, and in certain cases, to the spouse, guardian or survivor of those previously mentioned.

*Article 4. Equality of Treatment.*

In accordance with this Convention, all persons affected by the agreement will receive equal treatment by each of the Parties as regards rights and obligations that derive either directly from the legislation of one Party or from this Convention.

*Article 5. Application of Spanish Legislation.*

1. When a worker, be he self-employed or employed by a third party, who is subject to Spanish legislation on Social Security, is sent by his employer or chooses to relocate in Australia to work temporarily, he will remain subject to said legislation as long as the proposed period of work in Australia does not exceed five years.

2. If, due to unforeseen circumstances, the period of work extends beyond five years, the extension may be recognized by the competent Spanish authorities".



## XXII. CRIMINAL LAW

— Treaty between the Kingdom of Spain and Australia on mutual assistance in criminal matters, Madrid, 3 July 1989.

*Entry into force*: 31 January 1991.

(BOE n. 11, 12.1.91 and BOE n. 24, 28.1.91 [s.e.]).

*Note*: Some articles says as follows:

“Article 1. Scope of application.

1. The Contracting States, in accordance with the provisions of this Treaty, will provide assistance in inquiries, investigations and procedural steps related to any proceeding for crimes which would be heard by the authorities of the Requesting State at the time in which the assistance is requested.

2. Assistance will also be provided in cases of tax crimes or crimes having to do with currency exchange.

3. Types of assistance not included are:

a) The arrest or detention of a person for extradition.

b) The enforcement in the requested State of a criminal judgement handed down in the requesting State, except in cases in which the legislation of the requested State and article 13 of this treaty so allows.

c) The transfer of convicts who must complete a prison sentence, and

d) Assistance in the investigation and prosecution of crimes of a strictly military nature.

4. Assistance can be provided in the interest of justice, even if the deed is not punishable according to the legislation of the requested State and without affecting the provisions of paragraph 5 of this article.

5. When the request for assistance includes a search warrant, or the confiscation or impoundment of goods, the request will only be honored if the crime involved is also a crime according to the legislation of the requested State.

*Article 21. Effectiveness of other treaties and agreements.*

This Treaty will not repeal any existing obligation of the Contracting States that derive from other Treaties, Conventions or Agreements of any other nature, nor will it prohibit the Contracting States from providing mutual assistance according to the provisions of other Treaties or Conventions”.

— Exchange of Notes between Spain and Argentina regarding the development of the Treaty for Extradition and Judicial Assistance in Criminal Matters dated 3 March 1987, Buenos Aires, 1 February 1991.

*Entry into force*: 3 May 1991.

(BOE n. 122, 22.5.91).

— Exchange of Notes between the Government of the Kingdom of Spain and the Government of the United Kingdom of Great Britain and Northern Ireland for the extension of the 22 July 1985, bilateral Treaty on Extradition to include Gibraltar, Madrid, 1 February 1991.

*Entry into force:* 3 May 1991.

(BOE n. 153, 2.7.91 and BOE n. 204, 26.8.91 [s.e.]).

— Exchange of Notes between the Government of the Kingdom of Spain and the Government of the United Kingdom of Great Britain and Northern Ireland for the extension of the July 22, 1986, bilateral Treaty on extradition to include territories whose international relations are governed by said country, Madrid, 1 February 1991.

*Entry into force:* 3 May 1991.

(BOE n. 153, 2.7.91 and BOE n. 204, 26.8.91 [s.e.]).

— Additional Protocol to the European Convention on Judicial Assistance in Criminal Matters dated 20 April 1959, Strasbourg, 17 March 1987.

*Entry into force:* 11 September 1991.

*Deposit of the instrument of ratification:* 13 June 1991.

*Reservation:* "The Spanish Government declares that in accordance with article 8.2 of the aforementioned Protocol, it reserves the right to refuse to execute letters rogatory for purposes of investigation or the impoundment of goods in criminal matters".

(BOE, n. 184, 2.8.91)

### XXIII. TAX LAW

— Convention between the Kingdom of Spain and the Peoples' Republic of Bulgaria to avoid double taxation and to prevent tax evasion in matters related to income tax and capital levy, Sofia, 6 March 1990.

*Entry into force:* 14 June 1991.

(BOE n. 166, 12.7.91 and BOE n. 227, 21.9.91 [s.e.]).

*Note:* Some articles says as follows:

"Article 1. Scope of Tax Liability.

1. This Convention will be applied to residents of one or both of the Contracting States.

2. For the purposes of this Convention, the following individuals will be considered residents:

a) In Bulgaria, natural persons who are citizens of the Peoples' Republic of Bulgaria and the bodies corporate or unincorporate who have their central administration in Bulgaria or who are registered there.

b) In Spain, the natural persons who according to Spanish legislation are required to pay taxes in Spain due to their place of residence or any other analogous criterion.

3. When under the provisions of Section 2 natural persons are considered residents of both of the Contracting States, they will be considered residents of the State on which they depend for their livelihood.

4. If it is impossible to determine which State this is, the competent authorities of the Contracting States will resolve the case through friendly mutual agreement.

5. When under the provisions of Section 2 when a body corporate or unincorporate is a resident of both Contracting States, it will be considered a resident of the State in which the principal place of business is located.

*Article 2. Taxes covered.*

1. The current taxes that are specifically covered by this Agreement are:

a) in Spain:

- i) Individual Income Taxes.
- ii) Corporate Taxes.
- iii) Property Taxes, and
- iv) Local income and property taxes.

b) in Bulgaria:

- i) Total Income Tax.
- ii) Tax on Single Persons, Widows, Divorcees or Married Couples without Children.
- iii) Tax on Profits, and
- iv) Tax on Buildings.

3. This Convention will be applied equally to taxes of an identical or analogous nature that are established after the date this Convention is signed which are added to current taxes or replace them. The competent authorities in the Contracting States will notify one another of any relevant modifications that are introduced in their respective tax legislation. If the competent authorities of the two Contracting States are not in agreement about the application of the first phrase of this section,

negotiations should be initiated to discuss the modification of the Convention to include the new tax in question”.