



SUPREME COURT OF BERMUDA

**MEMORANDUM OF UNDERSTANDING  
ON REFERENCES OF QUESTIONS OF LAW  
BETWEEN  
THE SUPREME COURT OF SINGAPORE  
AND  
THE SUPREME COURT OF BERMUDA**

The Supreme Court of Singapore and the Supreme Court of Bermuda (hereafter referred to individually as “Party” and collectively as “Parties”):

**RECOGNISING** the relationship between the Parties as an important element in promoting and facilitating legal cooperation;

**CONVINCED OF** the value of close cooperation for mutual benefit in the field of the administration of justice;

**RECOGNISING** the difficulties and costs involved in traditional processes for determining questions of law by the judges of one Party with respect to the law applicable in the jurisdiction of the other Party;

**ACKNOWLEDGING** the innovative procedure adopted by certain common law courts of referring questions of foreign law to each other’s courts such as in *Westacre Investments Inc v The State-Owned Company Yugoimport SDPR (also known as Jugoimport-SDPR)* [2009] 2 SLR(R) 166 and *Westacre Investments Inc v Yugoimport SDPR* [2008] EWHC 801 (Comm.);

**HAVE REACHED THE FOLLOWING UNDERSTANDING:**

## **ARTICLE 1**

If an issue in proceedings before one Party is governed by the law of the other Party, each Party will give consideration, in accordance with its Rules and procedures and if appropriate in the circumstances of the proceedings, to directing the parties in the proceedings to take steps to have any contested issue of law determined by the courts of the Party of the governing law.

## **ARTICLE 2**

The consideration referred to in Article 1 may include:

- (i) the identification of the precise question of foreign law to be answered;
- (ii) the identification of the facts or assumptions upon which the answer to the question is to be determined; and
- (iii) the identification of whether and, if so, in what respects the Parties may depart from the facts or assumptions and/or vary the question to be answered in any proceedings in the court of the other Party.

## **ARTICLE 3**

Upon the institution of proceedings for the answer to a question pursuant to Articles 1 and 2, the court of each Party undertakes to provide an answer to the referred question of law as expeditiously as its procedures allow.

## **ARTICLE 4**

In addition to the procedure for assistance and cooperation set forth in Articles 1 and 2, each Party shall take steps to encourage other less formal forms of communication and consultation between the Parties regarding questions of law.

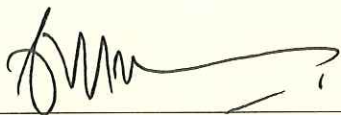
## **ARTICLE 5**

Differences arising from the interpretation, operation and implementation of this Memorandum of Understanding will be settled amicably through consultation between the Parties based on the principles of mutual understanding and respect.

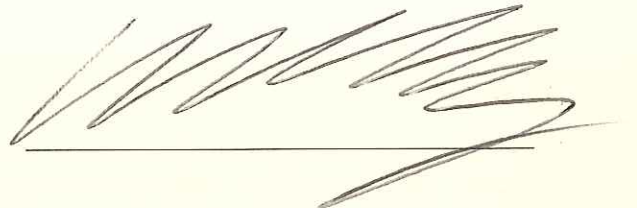
## ARTICLE 6

- (i) This Memorandum will come into effect on the date of its signing.
- (ii) This Memorandum may be terminated early by either Party giving written notice to the other Party and such termination will take effect three calendar months after the date of written notice.
- (iii) This Memorandum will terminate five calendar years after the date of signing at which time it is anticipated that the procedures herein referred to will be sufficiently well established not to require a succeeding agreement.
- (iv) This Memorandum has no binding legal effect. It does not constitute a treaty or legislation, is not binding on the judges of either party and does not supersede any existing or future laws, judicial decisions or court rules.

**SIGNED** this 6th day of September, 2017 by:



Sundaresh Menon  
Chief Justice  
Supreme Court of Singapore



Ian Kawaley  
Chief Justice  
Supreme Court of Bermuda