

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CHIEF JUSTICE OF NEW SOUTH WALES
AND
THE CHIEF JUDGE OF THE STATE OF NEW YORK
ON
REFERENCES OF QUESTIONS OF LAW**

The Chief Justice of New South Wales and the Chief Judge of the State of New York (hereinafter referred to individually as "the Party" or "each Party" and collectively as "the Parties"):

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

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

RECOGNIZING 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 the Supreme Court of Singapore and the Supreme Court of New South Wales by referring questions of foreign law

HAVE REACHED THE FOLLOWING UNDERSTANDING:

ARTICLE 1

If a substantial legal issue in proceedings before one Court is governed by the law of the other Court, each Party shall give consideration, in accordance with its Rules and procedures, to taking steps to have any such contested issue of law referred to the Party of the governing law for an answer to be provided in accordance with the procedures of the requested jurisdiction.

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;
- (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, each Party undertakes to provide an answer to the referred question of law in accordance with the procedures it has established and as expeditiously as those 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

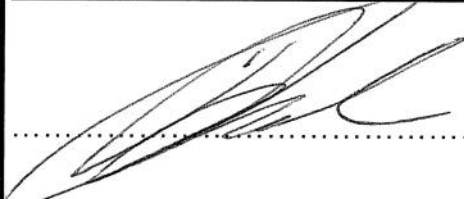
Differences arising from the interpretation, operation and implementation of this Memorandum of Understanding shall be settled amicably through consultation between the Parties based on the principles of mutual understanding and respect.

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 shall 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.

SIGNED on the *28th day of October 2010* in duplicate

CHIEF JUSTICE OF NEW SOUTH WALES



J J SPIGELMAN AC

CHIEF JUDGE OF THE STATE OF NEW YORK



J LIPPMAN