RISK FACTORS

In addition to the other information included in this annual report and the exhibits, you should carefully consider the following factors related to an investment in Harmony's ordinary shares and ADSs. There may be additional risks that Harmony does not currently know of or that Harmony currently deems immaterial based on information currently available to it. Any of these risks could have a materially adverse affect on Harmony's business, financial condition or results of operations, resulting in a decline in the trading price of Harmony's shares (or ADSs).

The profitability of Harmony's operations, and the cash flows generated by those operations, are affected by changes in the market price of gold, such that a fall in the price of gold below Harmony's cash operating cost of production for any sustained period may lead Harmony to experience losses and curtail or suspend certain operations.

Substantially all of Harmony's revenues come from the sale of gold. Historically, the market price for gold has fluctuated widely and has been affected by numerous factors over which Harmony has no control, including:

- the demand for gold industrial uses and for use in jewelry;
- international or regional political and economic trends;
- the strength of the US dollar (the currency in which gold prices generally are quoted) and of other currencies;
- financial market expectations regarding the rate of inflation;
- interest rates;
- speculative activities;
- actual or expected purchases and sales of gold bullion holdings by central banks or other large gold bullion holders or dealers (which are likely to result in a decrease in the price of gold);
- forward sales by other gold producers (because Harmony does not normally enter into forward sales, derivatives or other hedging arrangements to establish a price in advance for the sale of its future gold production, Harmony is not protected against decreases in the gold price and if the gold price decreases significantly, Harmony runs the risk of reduced revenues in respect of any gold production that is not hedged); and
- the production and cost levels for gold in major gold-producing nations, such as South Africa, the rest of Africa and Australia.

In addition, the current demand for and supply of gold affects the price of gold, but not necessarily in the same manner as current demand and supply affect the prices of other commodities. Historically, gold has retained its value in relative terms against basic goods in times of inflation and monetary crisis. As a result, central banks, financial institutions and individuals hold large amounts of gold as a store of value and production in any given year constitutes a very small portion of the total potential supply of gold. Since the potential supply of gold is large, relative to mine production in any given year, normal variations in current production will not necessarily have a significant effect on the supply of gold or its price.

The volatility of gold prices is illustrated in the following table, which shows the annual high, low and average of the afternoon London Bullion Market fixing price of gold in US dollars for the past ten calendar years:

	Price per Ounce		
Year	**High**	**Low**	**Average**
	($)	**($)**	**($)**
1995	396	372	384
1996	415	367	388
1997	367	283	331
1998	313	273	294
1999	326	253	279
2000	313	264	282
2001	293	256	271
2002	332	278	309
2003	412	322	361
2004	427	343	389
2005 (through October 21, 2005)	476	411	434

On June 30, 2005, the afternoon fixing price of gold on the London Bullion Market was $437 per ounce. On October 21, 2005, the afternoon fixing price of gold on the London Bullion Market was $463 per ounce.

While the aggregate effect of these factors is impossible for Harmony to predict, if gold prices should fall below Harmony's cash operating cost of production and remain at such levels for any sustained period, Harmony may experience losses and may be forced to curtail or suspend some or all of its operations. In addition, Harmony would also have to assess the economic impact of low gold prices on its ability to recover any losses it may incur during that period and on its ability to maintain adequate reserves. Harmony's average cash operating cost of production per ounce of gold sold was approximately $412 in fiscal 2005, $362 in fiscal 2004 and $253 in fiscal 2003.

Due to the fact that the majority of Harmony's production costs are incurred in Rand and that gold is sold in US dollars, Harmony's financial condition could be materially harmed by an appreciation in the value of the Rand against the US dollar.

Gold is sold throughout the world in US dollars, but the majority of Harmony's operating costs are incurred in Rand. As a result, any significant and sustained appreciation of Rand against the US dollar will serve materially to reduce Harmony's Rand revenues and overall net income.

The Rand has appreciated significantly against the US dollar since the end of calendar year 2001, following significant depreciation against the US dollar between 1997 and 2001. Harmony's operating environment has been severely influenced by the strong Rand, which has appreciated 17% against the US dollar since 2001, and has negatively impacted the company's short-term profitability.

Harmony's gold reserve figures are estimated based on a number of assumptions, including assumptions as to mining and recovery factors, future cash costs of production and the price of gold and may yield less gold under actual production conditions than currently estimated.

The ore reserve estimates contained in this annual report are estimates of the mill delivered quantity and grade of gold in Harmony's deposits and stockpiles. They represent the amount of gold which Harmony believes can be mined, processed and sold at prices sufficient to recover its estimated future cash costs of production, remaining investment and anticipated additional capital expenditures. Harmony ore reserves are estimated based upon a number of factors, which have been stated in accordance with SEC Industry Guide 7. As Harmony's ore reserve estimates are calculated based on estimates of future cash operating costs, future gold prices and, because of the fact that Harmony's gold sales are primarily in US dollars and Harmony incurs most of its cash operating costs in Rand, the exchange rate between the Rand and the US dollar and, in the case of Harmony's Australian operations, the Australian dollar. As a result, the reserve estimates contained in the annual report should not be interpreted as assurances of the economic life of Harmony's gold deposits or the profitability of its future operations.

Since ore reserves are only estimates that Harmony makes based on the above factors, Harmony may in future need to revise these estimates. In particular, if Harmony's cash costs of production increase (whether in Rand terms, in Australian dollar terms, or in relative terms due to appreciation of the Rand or the Australian dollar against the US dollar) or the gold price decreases, the recovery of a portion of Harmony's ore reserves may become uneconomical. This will force Harmony to lower its estimated reserves.

Part of Harmony's strategy depends on its ability to make additional acquisitions.

In order to increase Harmony's gold production and to acquire additional reserves, Harmony continuously explores opportunities to expand its production base by acquiring selected gold producers and mining operations. However, Harmony cannot guarantee that:

- it will be able to identify appropriate acquisition candidates or negotiate acquisitions on favorable terms;
- it will be able to obtain the financing necessary to complete future acquisitions; or
- the issuance of Harmony's ordinary shares or other securities in connection with any future acquisition will not result in a substantial dilution in ownership interests of holders of Harmony's ordinary shares.

As at June 30, 2005, Harmony's mining operations reported total proven and probable reserves of 54.1 million ounces. If Harmony is unable to acquire additional gold producers or generate additional proven and probable reserves at Harmony's existing operations or through its exploration activities, Harmony cannot be certain that it will be able to expand or replace its current production with new reserves in an amount sufficient to its mining operations beyond the current life of its reserves.

To maintain gold production beyond the expected lives of Harmony's existing mines or to increase production materially above projected levels, Harmony will need to access additional reserves through exploration or discovery.

Harmony's operations have limited proven and probable reserves and exploration and discovery is necessary to maintain current gold production levels at these operations. Exploration for gold and other precious metals is speculative in nature, is frequently unsuccessful and involves many risks, including risks related to:

- locating orebodies;
- identifying the metallurgical properties of orebodies;
- estimating the economic feasibility of mining orebodies;
- developing appropriate metallurgical processes;
- obtaining necessary governmental permits; and
- constructing mining and processing facilities at any site chosen for mining.

Harmony's exploration efforts might not result in the discovery of mineralization and any mineralization discovered might not result in an increase in Harmony's proven and probable reserves. To access additional reserves, Harmony will need to successfully complete development projects, including extending existing mines and, possibly, developing new mines. Development projects would also be necessary to access any mineralization discovered through exploration in Australasia. Harmony typically uses feasibility studies to determine whether or not to undertake significant development projects. Feasibility studies include estimates of expected or anticipated economic returns, which are based on assumptions about:

- future gold and other metal prices;
- anticipated tonnage, grades and metallurgical characteristics of ore to be mined and processed;
- anticipated recovery rates of gold and other metals from the ore, and
- anticipated total costs of the project, including capital expenditure and cash operating costs.

Actual cash costs of production, production and economic returns may differ significantly from those anticipated by Harmony's feasibility studies. Moreover, it can take a number of years from the initial feasibility studies until development is completed and during that time, the economic feasibility of production may change. In addition, there are a number of uncertainties inherent in the development and construction of an extension to an existing mine or any new mine, including:

- the availability and timing of necessary environmental and governmental permits;
- the timing and cost necessary to construct mining and processing facilities, which can be considerable;
- the availability and cost of skilled labor, power, water and other materials;
- the accessibility of transportation and other infrastructure, particularly in remote locations;
- the availability and cost of smelting and refining arrangements; and
- the availability of funds to finance construction and development activities.

Harmony has addressed growth through the recent expansion of its exploration activities. The company currently maintains a range of focused exploration programs, concentrating on areas not too distant from its operation mines, as well as a number of prospective known gold mineralized regions around the world. During fiscal 2005, the bulk of exploration expenditure was allocated to activities in Australia, Papua New Guinea, Peru and South Africa with subordinate expenditure in West Africa. In fiscal 2006, Harmony intends to carry out exploration in Papua New Guinea, South Africa, West and East Africa, Australia and Latin America. In addition, Harmony has undertaken a comprehensive target generation program in Peru, supported by surface sampling systems.

However, there is no assurance that any future development projects will extend the life of Harmony's existing mining operations or result in any new commercial mining operations.

Harmony may experience problems in managing new acquisitions and integrating them with its existing operations.

Acquiring new gold mining operations involves a number of risks including:

- difficulties in assimilating the operations of the acquired business;
- difficulties in maintaining the financial and strategic focus of Harmony while integrating the acquired business;
- problems in implementing uniform standards, controls, procedures and policies;
- increasing pressures on existing management to oversee a rapidly expanding company; and
- to the extent Harmony acquires mining operations outside South Africa or Australia encountering difficulties relating to operating in countries in which Harmony has not previously operated.

Any difficulties or time delays in achieving successful integration of new acquisitions could have a material adverse effect on Harmony's business, operating results, financial condition and share price.

Due to the nature of mining and the type of gold mines it operates, Harmony faces a material risk of liability, delays and increased cash costs from environmental and industrial accidents and pollution.

The business of gold mining by its nature involves significant risks and hazards, including environmental hazards and industrial accidents. In particular, hazards associated with underground mining include:

- rockbursts;
- seismic events;
- underground fires;
- cave-ins or falls of ground;
- discharges of gases and toxic chemicals;
- release of radioactive hazards;
- flooding;
- accidents; and
- other conditions resulting from drilling, blasting and the removal and processing of material from a deep-level mine.

Hazards associated with open cast mining (also known as open pit mining) include:

- flooding of the open pit;
- collapse of the open pit walls;
- accidents associated with the operation of large open pit mining and rock transportation equipment; and
- accidents associated with the preparation and ignition of large scale open pit blasting operations.

Hazards associated with waste rock mining include:

- accidents associated with operating a waste dump and rock transportation; and
- production disruptions due to weather.

Harmony is at risk of experiencing any and all of these environmental or other industrial hazards. The occurrence of any of these hazards could delay production, increase cash operating costs and result in financial liability to the Company.

Harmony's land and mineral rights in South Africa could be subject to land restitution claims which could impose significant costs and burdens.

Harmony's privately held land and mineral rights could be subject to land restitution claims under the South African Restitution of Land Rights Act 1994, or the Land Claims Act. Under this Act, any person who was dispossessed of rights to land in South Africa as a result of previous discriminatory laws or practices without payment of just and equitable compensation is granted certain remedies, including the restoration of the land. Under the Land Claims Act, persons entitled to institute a land claim were required to lodge their claims by December 31, 1998. Harmony has not been notified of any land claims, but any claims of which it is notified in the future could have a material adverse effect on Harmony's right to the properties to which the claims relate and, as a result, on Harmony's business, operating results and financial condition.

The South African Restitution of Land Rights Amendment Act 2004, or the Amendment Act, became law on February 4, 2004. Under the Land Claims Act, the Minister for Agriculture and Land Affairs, or the Land Minister, may not acquire ownership of land for restitution purposes without a court order unless an agreement has been reached between the affected parties. The Amendment Act, however, entitles the Land Minister to acquire ownership of land by way of expropriation either for, or, in respect of land as to which no claim has been lodged but the acquisition of which is directly related to or affected by a claim, the acquisition of which would promote restitution to those entitled or would encourage alternative relief to those not entitled. Expropriation would be subject to provisions of legislation and the South African Constitution which provides, in general, for just and equitable compensation. It is possible that any of Harmony's privately held land rights in South Africa could become subject to acquisition by the state without Harmony's agreement, or that Harmony would not be adequately compensated for the loss of its land rights, which could have a negative impact on Harmony's South African operations and therefore an adverse effect on its business, operating results and financial condition.

Harmony's insurance coverage may prove inadequate to satisfy future claims against it.

Harmony has third party liability coverage for most potential liabilities, including environmental liabilities. While Harmony believes that its current insurance coverage for the hazards described above is adequate and consistent with industry practice, Harmony may become subject to liability for pollution or other hazards against which it has not insured or cannot insure, including those in respect of past mining activities. Further, Harmony maintains and intends to continue to maintain, property and liability insurance consistent with industry practice, but such insurance contains exclusions and limitations on coverage. In addition, there can be no assurance that insurance will continue to be available at economically acceptable premiums. As a result, in the future Harmony's insurance coverage may not cover the extent of claims against it for environmental or industrial accidents or pollution.

The results of Harmony's South African operations may be negatively impacted by inflation.

Harmony's operations have been materially affected by inflation in recent years. Even though the inflation rate has decreased over the last three years, working cost and especially wages have increased considerably over the past three years resulting in significant cost pressures on the mining industry. Harmony's profits and financial condition could be also affected adversely in the absence of a concurrent devaluation of the Rand and an increase in the price of gold.

The socio-economic framework in the regions of which we operate may have an adverse effect on Harmony's operations and profits.

It remains difficult to predict the future political, social and economic direction of South Africa, Australia, Papua New Guinea, or any other country in which we operate, and the impact government decisions may have on our business. It is also difficult to predict the impact of addressing inequalities on Harmony's business.

Harmony's financial flexibility could be materially constrained by exchange control regulations as imposed by the South African Reserve Bank.

South Africa's exchange control regulations provide for restrictions on exporting capital from South Africa. As a result, Harmony's ability to raise and deploy capital outside South Africa is restricted. In particular, Harmony:

- is generally not permitted to export capital from South Africa or to hold foreign currency without the approval of the South African exchange control authorities;
- is generally required to repatriate to South Africa profits of foreign operations; and
- is limited in its ability to utilize profits of one foreign business to finance operations of a different foreign business.

These restrictions could hinder Harmony's normal corporate functioning. While exchange controls have been relaxed in recent years, it is difficult to predict whether or how the South African government will further relax the exchange control regulations in the future.

Since Harmony's South African labor force has substantial trade union participation, Harmony faces the risk of disruption from labor disputes and new South African labor laws.

Despite the history of positive and constructive engagement with the unions, there are periods during which the various stakeholders are unable to agree on dispute resolution processes. Disruptive activities on the part of labor, which normally differ in intensity, then become unavoidable. Due to the high level of union membership among Harmony's employees, approximately 88%, Harmony is at risk of having, and did experience in fiscal 2005 for example, production stoppages for indefinite periods due to strikes and other labor disputes. Significant labor disruptions have affected our operations and financial condition and we are not able to predict whether we will experience significant labor disputes in the future.

Our production may also be materially affected by labor laws. Since 1995, South African labor laws have changed significantly in ways that affect Harmony's operations. In particular, laws enacted since then which regulate work time, provide for mandatory compensation in the event of termination of employment for operational reasons, and impose large monetary penalties for non-compliance with administrative and reporting requirements in respect of affirmative action policies, could result in significant costs. In addition, future South African legislation and regulations relating to labor may further increase our cash costs of production or alter our relationship with our employees. Harmony may continue to experience significant changes in labor law in South Africa over the next several years.

HIV/AIDS poses risks to Harmony in terms of productivity and costs.

The incidence of HIV/AIDS in South Africa, which is forecast to increase over the next decade, poses risks to Harmony in terms of potentially reduced productivity and increased medical and other costs. Harmony expects that significant increases in the incidence of HIV/AIDS infection and HIV/AIDS-related diseases among the workforce over the next several years may have an adverse impact on Harmony's operations and financial status. This expectation, however, is based on assumptions about, among other things, infection rates and treatment costs which are subject to material risks and uncertainties beyond Harmony’s control. As a result, actual results may differ from the current estimates.

The cost of occupational healthcare services may increase in the future.

Occupational healthcare services are available to Harmony’s employees from its existing healthcare facilities. There is a risk that the cost of providing such services could increase in future depending on changes in the nature of underlying legislation and the profile of Harmony’s employees. This increased cost, should it transpire, is currently indeterminate. Harmony has embarked on a number of interventions focused on improving the quality of life of Harmony’s work force, although there can be no guarantee that such initiatives will not be adversely affected by increased costs.

Laws governing mineral rights ownership have changed in South Africa.

On May 1, 2004, the South African Mineral and Petroleum Resources Development Act 2002, or Minerals Act, became effective. The principal objectives set out in the Act are:

- to recognize the internationally accepted right of the state of South Africa to exercise full and permanent sovereignty over all the mineral and petroleum resources within South Africa;
- to give effect to the principle of the State’s custodianship of the nation’s mineral and petroleum resources;
- to promote equitable access to South Africa’s mineral and petroleum resources to all the people of South African and redress the impact of past discrimination;
- to substantially and meaningfully expand opportunities for historically disadvantaged persons, including women, to enter the mineral and petroleum industry and to benefit from the exploitation of South Africa’s mineral and petroleum resources;
- to promote economic growth and mineral and petroleum resources development in South Africa;
- to promote employment and advance the social and economic welfare of all South Africans;
- to provide security of tenure in respect of prospecting, exploration, mining and production operations;
- to give effect to Section 24 of the South African Constitution by ensuring that South Africa’s mineral and petroleum resources are developed in an orderly and ecologically sustainable manner while promoting justifiable social and economic development;
- to follow the principle that mining companies keep and use their mineral rights, with no expropriation and with guaranteed compensation for mineral rights; and
- to ensure that holders of mining and production rights contribute towards the socio-economic development of areas in which they are operating.

Under the Act, tenure licenses over established operations will be secure for 30 years (and renewable for 30 years thereafter), provided that mining companies obtain new licenses over existing operations within five years of the date of enactment of the Act and fulfill requirements specified in the Broad-Based Socio-Economic Empowerment Charter for the South African mining industry, or the Mining Charter.

The principles contained in the Mining Charter relate to the transfer of 26% of South Africa’s mining assets to historically disadvantaged South Africans, or HDSAs, over a 10-year period, as defined in the Mining Charter. Under the Mining Charter, the South African mining industry has committed to securing financing to fund participation by HDSAs in an amount of R100 billion within the first five years of the Mining Charter’s tenure. The Mining Charter provides for the review of the participation process after five years to determine what further steps, if any, are needed to achieve the 26% target participation. The Mining Charter requires programs for black economic empowerment and the promotion of value-added production, such as jewelry-making and other gold fabrication, in South Africa. The Mining Charter also sets out targets for broad-based black economic empowerment in the areas of human resources, skill development, employment equality, procurement and beneficiation. In addition, the Mining Charter addresses other socio-economic issues, such as migrant labor, housing and living conditions.

Harmony actively carries out mining and exploration activities in all of its material mineral rights areas. Three of Harmony’s operations have been granted their mining licenses and applications have been submitted for the balance. We will be eligible to apply for new licenses over existing operations, provided that we comply with the Mining Charter. We have taken steps to comply with the expected provisions of the Mining Charter, such as promoting value-added production, exploring black empowerment initiatives and increasing worker participation. We expect more costs involved in compliance with the Mining Charter to lead to increased cash operating costs, which may have an adverse impact on the profits generated by Harmony's operations in South Africa.

The Act also makes reference to royalties payable to the state in terms of an Act of Parliament, known as the Money Bill, which was made available for public comment. The introduction of the Money Bill will have an adverse impact on the profits generated by Harmony's operations in South Africa. In terms of the draft regulations, royalties will only be payable from 2009.

In Australia, most mineral rights belong to the government, and mining companies pay royalties to government based on production. There are, however, limited areas where government granted freehold estates without reserving mineral rights. Harmony's subsidiary, New Hampton, has freehold ownership of its Jubilee mining areas, but the other mineral rights in Harmony's Australasian operations belong to the Australian and Papua New Guinea governments and are subject to royalty payments. In addition, current Australian law generally requires native title approval to be obtained before a mining license can be granted and mining operations can commence. New Hampton and Hill 50 have approved mining leases for most of their reserves, including all reserves that are currently being mined. Should New Hampton or Hill 50, or any of our initiatives in Papua New Guinea or other exploration areas, desire to expand operations into additional areas under exploration, these operations would need to convert the relevant exploration licenses prior to the start of mining, and that process could require native title approval. There can be no assurance that any approval would be received.

Harmony is subject to extensive environmental regulations.

As a gold mining company, Harmony is subject to extensive environmental regulation. Harmony has experienced and expects to continue to experience increased cash operating costs of production arising from compliance with South African environmental laws and regulations. The Minerals Act, certain other environmental legislation and the administrative policies of the South African government regulate the impact of Harmony's prospecting and mining operations on the environment.

Pursuant to these regulations, upon the suspension, cancellation, termination or lapsing of a prospecting permit or mining authorization in South Africa, Harmony will remain liable for compliance with the provisions of the Minerals Act, including any rehabilitation obligations. This liability will continue until such time as the South African Department of Minerals and Energy certifies that Harmony has complied with such provisions.

In the future, Harmony may incur significant costs associated with complying with more stringent requirements imposed under new legislation and regulations. This may include the need to increase and accelerate expenditure on environmental rehabilitation and alter provisions for this expenditure, which could have a material adverse effect on Harmony's results and financial condition. Harmony may also face increased environmental costs resulting from other mines in the vicinity of Harmony's mines failing to meet their obligations with regard to the pumping or treatment of water.

The South African government has reviewed requirements imposed upon mining companies to ensure environmental restitution. For example, following the introduction of an environmental rights clause in South Africa's constitution, a number of environmental legislative reform processes have been initiated. Legislation passed as a result of these initiatives has tended to be materially more onerous than laws previously applied in South Africa. Examples of such legislation include the Minerals Act, the South African National Nuclear Regulator Act 1999, the South African National Water Act of 1998 and the South African National Environmental Management Act 1998, which include stringent "polluter-pays" provisions. The adoption of these or additional or more comprehensive and stringent requirements, in particular with regard to the management of hazardous wastes, the pollution of ground and ground water systems and the duty to rehabilitate closed mines, may result in additional costs and liabilities.

Harmony's Australian operations are also subject to various laws and regulations relating to the protection of the environment, which are similar in scope to those of South Africa.

Harmony may not pay cash dividends to its shareholders in the future.

It is the current policy of Harmony's Board to declare and pay cash dividends if profits and funds are available for that purpose. Whether or not funds are available depends on a variety of factors, including the amount of cash available and on capital expenditures and other cash requirements existing at that time. Under South African law, cash dividends may only be paid out of the retained or current profits of Harmony. We did not declare a cash dividend in fiscal 2005 and we cannot assure you that cash dividends will be paid in the future.

Non-South African shareholders of Harmony face additional investment risk from currency exchange rate fluctuations since any dividends will be paid in Rand.

Dividends or distributions with respect to Harmony's ordinary shares have historically been paid in Rand. The US dollar equivalent of any dividends or distributions with respect to Harmony's ordinary shares would be adversely affected by potential future decreases in the value of the Rand against the US dollar. In fiscal 2005, the value of the Rand relative to the US dollar decreased by an average of 7.06% based on the closing rate for each financial year.

Because Harmony has a significant number of outstanding options, Harmony's ordinary shares are subject to dilution.

On June 30, 2005, Harmony had an aggregate of 1,200,000,000 ordinary shares authorized to be issued and, at that date, an aggregate of 393,341,194 ordinary shares were issued and outstanding. Harmony also has employee share option schemes. The employee share option schemes came into effect in 1994, 2001 and 2003 respectively. At June 30, 2005, options to purchase a total of 18,213,084 ordinary shares were outstanding. The exercise prices of these options vary between R22.90 and R93.00. As a result, shareholders' equity interests in Harmony are subject to dilution to the extent of the future exercises of the options.

Investors in the United States may have difficulty bringing actions, and enforcing judgments, against Harmony, its directors and its executive officers based on the civil liabilities provisions of the federal securities laws or other laws of the United States or any state thereof.

Harmony is incorporated in South Africa. All of Harmony's directors and executive officers (and certain experts named herein) reside outside of the United States. Substantially all of the assets of these persons and substantially all of the assets of Harmony are located outside the United States. As a result, it may not be possible for investors to enforce against these persons or Harmony a judgment obtained in a United States court predicated upon the civil liability provisions of the federal securities or other laws of the Unites States or any state thereof. A foreign judgment is not directly enforceable in South Africa, but constitutes a cause of action which will be enforced by South African courts provided that:

- the court that pronounced the judgment had jurisdiction to entertain the case according to the principles recognized by South African law with reference to the jurisdiction of foreign courts;
- the judgment is final and conclusive (that is, it cannot be altered by the court which pronounced it);
- the judgment has not lapsed;
- the recognition and enforcement of the judgment by South African courts would not be contrary to public policy, including observance of the rules of natural justice which require that the documents initiating the United States proceeding were properly served on the defendant and that the defendant was given the right to be heard and represented by counsel in a free and fair trial before an impartial tribunal;
- the judgment does not involve the enforcement of a penal or revenue law; and
- the enforcement of the judgment is not otherwise precluded by the provisions of the Protection of Business Act 99 of 1978, as amended, of the Republic of South Africa.

It is the policy of South African courts to award compensation for the loss or damage actually sustained by the person to whom the compensation is awarded. Although the award of punitive damages is generally unknown to the South African legal system, that does not mean that such awards are necessarily contrary to public policy. Whether a judgment was contrary to public policy depends on the facts of each case. Exorbitant, unconscionable, or excessive awards will generally be contrary to public policy. South African courts cannot enter into the merits of a foreign judgment and cannot act as a court of appeal or review over the foreign court. South African courts will usually implement their own procedural laws and, where an action based on an international contract is brought