

No. 3479

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**BELGIUM, LUXEMBOURG and NETHERLANDS**

**Convention concerning co-operation with regard to customs and excise. Signed at Brussels, on 5 September 1952**

*Official texts: French and Dutch.*

*Registered by Belgium on 26 July 1956.*

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**BELGIQUE, LUXEMBOURG et PAYS-BAS**

**Convention relative à la coopération en matière de douanes et d'accises. Signée à Bruxelles, le 5 septembre 1952**

*Textes officiels français et néerlandais.*

*Enregistrée par la Belgique le 26 juillet 1956.*

[TRANSLATION — TRADUCTION]

No. 3479. CONVENTION<sup>1</sup> BETWEEN BELGIUM, THE GRAND DUCHY OF LUXEMBOURG AND THE NETHERLANDS CONCERNING CO-OPERATION WITH REGARD TO CUSTOMS AND EXCISE. SIGNED AT BRUSSELS, ON 5 SEPTEMBER 1952

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His Majesty the King of the Belgians ;

Her Royal Highness the Grand Duchess of Luxembourg ;

Her Majesty the Queen of the Netherlands,

Being desirous of making co-operation between their customs and excise administrations more efficient, with a view to achieving ultimately the Economic Union between Belgium, the Grand Duchy of Luxembourg and the Netherlands provided for in the Customs Convention signed at London on 5 September 1944,

Have resolved to conclude a Convention and have appointed as their Plenipotentiaries for this purpose :

His Majesty the King of the Belgians :

His Excellency Mr. P. van Zeeland, Minister of Foreign Affairs ;

Her Royal Highness the Grand Duchess of Luxembourg :

His Excellency Mr. Robert Als, Envoy Extraordinary and Minister Plenipotentiary of the Grand Duchy of Luxembourg to Brussels ;

Her Majesty the Queen of the Netherlands :

Jonkheer G. Beelaerts van Blokland, Chargé d'Affaires of the Netherlands at Brussels,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

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<sup>1</sup> Came into force on 1 July 1956, in accordance with article 21, the instruments of ratification having been deposited with the Belgian Government by Belgium on 6 July 1953, by Luxembourg on 18 January 1955 and by the Netherlands on 30 June 1956.

*Chapter I*

VALIDITY TO BE ATTRIBUTED IN EACH OF THE COUNTRIES TO CUSTOMS AND EXCISE DOCUMENTS ISSUED OR AUTHENTICATED, TO FRANKING MARKS AFFIXED AND TO REPORTS ESTABLISHING FACTS MADE BY THE CUSTOMS AND EXCISE OFFICIALS OF ANOTHER COUNTRY

## Article 1

1. Documents regularly issued or authenticated in one country shall have the same effect in the other countries as if they had been issued or authenticated in accordance with the regulations of those countries.

2. Particulars entered on such documents by the customs and excise officials of one of the countries, in the exercise of their duties, shall be deemed to be as authentic in the other countries as they would be if they had been made by officials of their own administrations.

3. Movements of goods subject to customs or excise duties of which the place of origin is in one country and the place of delivery in another shall be effected and the documents relating thereto and declarations made in order to obtain such documents shall be drawn up taking into account the regulations of the customs offices and places of unloading of the country of delivery, as determined by the competent authority of that country.

## Article 2

Franking marks (impress seals, wax seals, marks stamped by a die, lead seals, seals affixed to an opening or cover, gummed seals, etc.) affixed to documents, goods, or means of transport by the customs and excise officials of one country shall be deemed in the other countries to be as authentic as the marks affixed by the officials of those countries.

## Article 3

Records relating to customs and excise matters drawn up by one or more of the officials of one country in the form and under the conditions determined by the legislation of their country shall be deemed in the other countries to be as authentic as records legally drawn up by one or more of the competent officials of those countries.

*Chapter II*ACTION TAKEN BY THE CUSTOMS AND EXCISE OFFICIALS OF ONE COUNTRY IN THE  
TERRITORY OF ANOTHER COUNTRY

## Article 4

The customs and excise officials of one country who are competent to investigate customs and excise violations may, in another country, co-operate with the competent officials of such other country in investigating and determining similar violations. They shall operate under the same conditions, with the same powers and with the same effects as the officials with whom they are co-operating.

## Article 5

When goods on which customs or excise duties are payable are sent from a place in one country to a destination in another country, officials of the former country who may be entrusted with conveying such goods shall continue their supervision until they are relieved by the officials of the latter country.

During this period, they shall be deemed to have the status of officials of such latter country, while in the exercise of their duties.

## Article 6

Customs or excise officials who have instituted proceedings in their own country under such conditions that they are legally empowered to detain, visit or possibly arrest a fugitive, or to visit or possibly seize goods or the means of transport, shall be authorized to enter the territory of another country in pursuit of such person, goods or vehicle and, if the pursuit is successful, to carry out, within the limits laid down by the law of such other country, the duties that they would have performed in their own country, save that they may not arrest a fugitive. They may, however, bring the latter without delay before the police authorities, in order to have his identity established if he is unable or unwilling to prove it.

Except where this is rendered impossible by the urgency of their operations, they must allow the competent officials of the country which they have entered to take part in the operations.

Goods and vehicles seized shall be placed in the custody of the officials of the country where the seizure was made, to be retained until a decision is reached on their ultimate destination.

*Chapter III*MUTUAL ASSISTANCE FOR THE PREVENTION AND PUNISHMENT OF CUSTOMS AND  
EXCISE VIOLATIONS

## Article 7

The countries shall render each other mutual assistance for the prevention and punishment of customs and excise violations.

## Article 8

The customs and excise administration of each country shall communicate, of its own accord and without delay, to the administration of the country concerned any information affecting customs and excise that it may acquire with regard to acts which seem to be unlawful, whether they have been committed or are contemplated.

## Article 9

At the direct request of the customs and excise administration of one country, the administration of the country to which the request has been addressed shall, while observing the statutory provisions of its own country :

(a) Undertake all official enquiries, including the hearing of persons sought in connexion with the violations referred to in article 7, and also of witnesses or experts ;

(b) Effect the seizure, subject to the responsibility of the requesting administration, of goods or means of transport which are liable to confiscation in the requesting country ;

(c) Serve on all persons liable to pay duty, whether on trial or sentenced, the documents of the proceedings and the judicial and administrative decisions relating to customs and excise matters. Such service shall be deemed to have been duly effected if done in accordance with the procedure customary in the requested country for similar notifications.

## Article 10

The duly authorized officials of the customs and excise administration of one country may, on a written request, obtain from the offices of the customs and excise administration of another country any information or evidence contained in papers, registers or other documents held by the requested office.

The requesting officials shall be allowed to make copies of the documents which they consider useful and to use in their records, reports and statements, and also in proceedings and prosecutions before the courts, the information collected and the documents consulted in the requested offices.

## Article 11

The customs and excise officials of one country duly authorized by their administration may give evidence in the courts of another country dealing with customs and excise violations concerning any facts which they observed in the exercise of their duties.

## Article 12

1. In customs and excise matters, the violation in one country of a provision entailing penal sanctions shall also be deemed to constitute the violation in the

other countries of a corresponding provision entailing penal sanctions under the legislation of those countries.

Proceedings shall be instituted in accordance with the provisions of paragraph 2 below. The penal laws and the laws on procedure and competence of the country where the judicial proceedings have been instituted shall be applicable.

2. The violation shall be punished in the country where it was committed and, if the violation was continued in several countries, it shall be punished in the country where the initial act was committed.

When it is impossible to determine with any certainty in which country the violation was committed, it shall be punished in the country where the arrested person is resident or had his last known place of residence. In the absence of other circumstances establishing competence, the country where the violation was established shall be competent. The country where proceedings are instituted shall remain competent even if the country where the violation was committed or the country where the defendant is or has been domiciled is subsequently ascertained.

If several persons have participated in the same violation, competence in respect of one of them shall confer competence in respect of the others.

At the request of the customs and excise administration of the country where a violation may be punished under the first sub-paragraph of this paragraph, proceedings may also be instituted in the country where the defendant is resident. The initiative shall henceforth rest with the administration of the latter country. The penalties imposed shall not be heavier than those laid down for the act in question by the legislation of the country where the violation was committed.

3. With regard to recidivism, a sentence for a customs and excise violation pronounced in one country shall have the same effect in the other countries as it would if it had been pronounced in those countries.

#### Article 13

When the sentence of a court for a customs and excise violation can be carried out in the country where it was pronounced, fines and costs may be recovered and confiscation may be effected in respect also of property owned by the sentenced person in another country, in accordance with the legislation of that country, after the executory order has been obtained. For this purpose, the authority responsible for carrying out the sentence in the first country shall address a direct request to the competent authority of the other country, together with a copy of the sentence.

#### Article 14

The proceeds of fines collected and confiscations effected in a country other than the one to which the right of initiating proceedings is granted under article 12,

paragraph 2, first, second and third subparagraphs, shall revert to the latter country, subject to the provisions of article 18.

At the request of that country, goods and vehicles seized in the cases referred to in article 6 or confiscated in execution of a court sentence or a statutory provision shall be delivered to it by the administration which has them in its custody, and the said country may, if it sees fit, have the goods or vehicles sent to its own territory.

#### Article 15

When a document relating to the transport of goods from a place in one country to a destination in another country is produced late or without the clearance required by the office where it was issued or authenticated, and also if the validity of such a document has expired, the duties, excise, taxes and fines that may be due shall be recovered by the administration of the country where the document was issued or authenticated.

### *Chapter IV*

#### GENERAL PROVISIONS

#### Article 16

When the customs and excise officials of one country exercise their functions in another country, under the conditions set forth in this Convention, they shall enjoy there the protection and right to assistance that are granted to the customs and excise officials of that country by the national legislation. They shall be placed on the same footing as the latter in respect of violations committed against them and by them.

In the exercise of their duties, they may wear their uniforms and bear their regulation arms. They must be able at all times to prove their official identity by producing the pass furnished by their administration.

They shall be authorized, in case of need, to use such means of constraint and self-defence as can be legally used by the customs and excise officials of the country in which they are operating.

#### Article 17

Motor vehicles, bicycles and other means of transport which the aforesaid officials may use for service in another country shall be exempt from taxes or any other charges for such use.

## Article 18

The costs borne by a country or its officials in meeting a request or requisition from another country shall be reimbursed by means of vouchers and in accordance with methods determined by an agreement between the competent Ministers.

*Chapter V*

## FINAL PROVISIONS

## Article 19

With regard to excise duties, articles 1, 3 and 12 shall be applicable to unified excise only.

## Article 20

This Convention shall apply only to the European territories of the High Contracting Parties.

## Article 21

1. This Convention shall be ratified and the instruments of ratification shall be deposited with the Belgian Government as soon as possible.

It shall come into force on the day after the three High Contracting Parties have deposited their instruments of ratification.

2. This Convention may be denounced at any time by any of the High Contracting Parties, subject to twelve months' notice in writing, transmitted to the other two High Contracting Parties through the diplomatic channel; in that event, it shall cease to have effect for the first High Contracting Party on the date of expiry of that period, except with regard to requests for assistance made or received by this High Contracting Party before that date.

IN WITNESS WHEREOF the above-mentioned Plenipotentiaries have signed this Convention and have affixed thereto their seals.

DONE in triplicate at Brussels on 5 September 1952, in French and Dutch, both texts being equally authentic.

For Belgium :

(Signed) Paul VAN ZEELAND

For the Grand Duchy of Luxembourg :

(Signed) Robert ALS

For the Netherlands :

(Signed) G. BEELAERTS VAN BLOKLAND