

No. 5670

**BELGIUM
and
CONGO (LEOPOLDVILLE)**

Convention concerning the winding-up of the Banque Centrale du Congo Belge et du Ruanda-Urundi (with Protocol and exchange of letters). Signed at New York, on 15 November 1960

Official text: French.

Registered by Belgium on 13 April 1961.

**BELGIQUE
et
CONGO (LÉOPOLDVILLE)**

Convention concernant la liquidation de la Banque Centrale du Congo Belge et du Ruanda-Urundi (avec Protocole et échange de lettres). Signée à New York, le 15 novembre 1960

Texte officiel français.

Enregistrée par la Belgique le 13 avril 1961.

[TRANSLATION — TRADUCTION]

No. 5670. CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND THE REPUBLIC OF THE CONGO (LEOPOLDVILLE) CONCERNING THE WINDING-UP OF THE BANQUE CENTRALE DU CONGO BELGE ET DU RUANDA-URUNDI. SIGNED AT NEW YORK, ON 15 NOVEMBER 1960

Convention between the Kingdom of Belgium and the Republic of the Congo represented respectively by Mr. W. Loridan and Mr. J. Bomboko.

Whereas on 30 June 1960 the Congo became an independent and sovereign State ;

Whereas it is expedient to establish separate monetary systems for the Congo and Ruanda-Urundi ;

Whereas it is expedient, to that end, to institute a new issuing authority for each of those countries and to wind up the Banque Centrale du Congo Belge et du Ruanda-Urundi ;

The High Contracting Parties,

Desiring to regulate procedures for the winding-up of the Banque Centrale du Congo Belge et du Ruanda-Urundi and to ensure the continuity of monetary functions in the Congo and Ruanda-Urundi,

Have agreed as follows :

Article 1

The Banque Centrale du Congo Belge et du Ruanda-Urundi (hereinafter called "Banque Centrale") shall be dissolved automatically on the date of the entry into force of this Convention.

The winding-up schedule of assets and liabilities shall be based on the position at 31 August 1960.

Article 2

The Issuing Authorities of the Congo and of Ruanda-Urundi shall take over the liabilities of the Banque Centrale payable in Congolese francs and specified below, and the transfer shall be effected without further formality at such time as

¹ Came into force on 16 February 1961, the date of the exchange of the instruments of ratification at Brazzaville, in accordance with article 18. This Convention is applicable to the Trust Territory of Ruanda-Urundi.

the said Authorities, each in respect of the liabilities pertaining to it, shall declare to the Banque Centrale that they assume the obligations deriving from those liabilities :

(a) Liability on notes and coin in circulation shall be assumed by the Issuing Authority of Ruanda-Urundi up to an amount equivalent to 21.2 per cent of the circulation at the close of business on 30 June 1960 ;

(b) The amount mentioned in the preceding paragraph shall be increased or reduced, as the case may be, by the net amount issued or withdrawn by the Usumbura Branch of the Banque Centrale after 30 June 1960 ;

(c) Liability on all other notes and coin in circulation shall be assumed by the Issuing Authority of the Congo ;

(d) Liability on accounts showing credit balances shall be assumed by the Issuing Authority of Ruanda-Urundi, in respect of accounts opened at the Usumbura Branch of the Banque Centrale, and by the Issuing Authority of the Congo, in respect of all other accounts.

For the purposes of this article, notes and coin shall comprise all notes and metallic currencies which represent a liability of the Banque Centrale.

Article 3

The following assets of the Banque Centrale shall be transferred without further formality, at the value shown in the winding-up schedule of assets and liabilities, to the Issuing Authority of the Congo and the Issuing Authority of Ruanda-Urundi at such time as those Authorities assume the liabilities mentioned in article 2 above, in an amount equivalent to the liabilities assumed :

(a) Currency reserves : as stated in article 4 below ;

(b) Commercial bills : the Issuing Authority of Ruanda-Urundi shall acquire those discounted by the Usumbura Branch of the Banque Centrale and the Issuing Authority of the Congo shall acquire those discounted in the Congo by the Banque Centrale ;

(c) Public bonds subscribed by Ruanda-Urundi : to the Issuing Authority of Ruanda-Urundi ;

(d) Other claims : the Issuing Authority of Ruanda-Urundi shall acquire the claims arising out of advances made by the Usumbura Branch of the Banque Centrale and the Issuing Authority of the Congo the claims arising out of advances made by the Banque Centrale in the territory of the Congo ;

(e) Premises, furniture and fittings : the Issuing Authority of Ruanda-Urundi shall acquire those situated in the territory of Ruanda-Urundi and the Issuing Authority of the Congo shall acquire all the remainder ;

(f) Congolese public stock, with the exception of the stock mentioned in article 5 below : to the Issuing Authority of Ruanda-Urundi, to the extent that the amount of the liabilities assumed by that Authority under article 2 above exceeds the amount

of the assets transferred to that Authority under the preceding paragraphs of this article ;

(g) Public bonds subscribed by the Congo : to each of the two Authorities, to the amount of the balance of the total assets transferable to them.

Article 4

Of the currency reserves mentioned in article 3, paragraph (a), above an amount equivalent to 20 per cent of the currency reserves of the Banque Centrale at the close of business on 31 August 1960, shall be transferred to the Issuing Authority of Ruanda-Urundi, such amount to be increased or reduced, as the case may be, by the net difference between receipts and remittances of gold and currencies other than the Congolese franc after 31 August 1960 arising from operations effected by the Banque Centrale by order and for account of the Government of Ruanda-Urundi or residents of Ruanda-Urundi. The Issuing Authority of the Congo shall receive the remainder of the currency reserves.

For the purposes of this article, currency reserves shall comprise the gold and currencies other than the Congolese franc which are the property of the Banque Centrale, less the debts and other liabilities of the Banque Centrale in gold or currencies other than the Congolese franc.

Article 5

The assets of the Banque Centrale which remain after deduction of the assets transferred under article 3 above shall be applied as follows :

(a) To the settlement of the debts and other liabilities of the Banque Centrale not transferred under article 2 above ;

(b) To the redemption of a part of the Congolese public stock of the Banque Centrale sufficient to adjust its value in the winding-up schedule of assets and liabilities to a level equivalent to its market value at 30 June 1960 and, if any balance remains after the payments mentioned in paragraphs (c) and (d) below, to the corresponding writing-down of the value of the premises of the Banque Centrale ;

(c) To the apportionment to the Congo and to Ruanda-Urundi of public bonds subscribed by the Congo, at their value in the winding-up schedule of assets and liabilities and up to an amount of 222 million Congolese francs, such bonds to be distributed in the ratio of five-sixths to the Congo and one-sixth to Ruanda-Urundi ;

(d) To the payment at Brussels in Belgian francs to the other shareholders by the Banque Centrale of an amount of 1,550 Belgian francs per share, such payments to be made during December 1960 or on the entry into force of this Convention, whichever shall be the later, all taxes and charges on such payments being for the account of the shareholders.

The payments mentioned in paragraph (d) above shall be made out of the proceeds of the Congolese public stock of the Banque Centrale first falling due.

Article 6

The general expenses and profits of the Banque Centrale relating to operations after 31 August 1960 shall be apportioned in the ratio of five-sixths payable by or to the Issuing Authority of the Congo and one-sixth payable by or to the Issuing Authority of Ruanda-Urundi, in so far as such operations cannot be identified as relating exclusively to either the Congo or Ruanda-Urundi.

Article 7

The Issuing Authority of Ruanda-Urundi shall exchange the notes and coin which it takes over under article 2 above for its own notes and coin.

If the amount exchanged is less than the amount agreed in article 2 above, the Issuing Authority of Ruanda-Urundi shall pay to the Issuing Authority of the Congo an amount equal to the difference, payment to be effected in gold or currencies other than the Congolese franc and in Congolese public bonds or stock.

The amount to be paid in gold or currencies other than the Congolese franc shall be so determined that the ratio between the currency reserves received by the Issuing Authority of Ruanda-Urundi under article 3 above and the amount of the liabilities assumed by that Authority under article 2 above remains unchanged.

Article 8

At such time as the Issuing Authority of the Congo declares to the Banque Centrale its intention of issuing its own notes and coin, the Banque Centrale shall deliver to that Authority its unissued notes and coin.

The Issuing Authority of Ruanda-Urundi shall also hold at the disposal of the Issuing Authority of the Congo or, failing that, of the Banque Centrale, the notes and coin which it has exchanged under article 7 above.

The recipient shall pay only the cost of transport and insurance.

Where the Issuing Authority of the Congo exchanges notes and coin of the Banque Centrale which it has acquired or issued, the entire profit deriving from the notes and coin which are not exchanged shall accrue to the Issuing Authority of the Congo.

Article 9

The Congolese public stock and bonds transferred to the Issuing Authority of Ruanda-Urundi under article 3, paragraphs (f) and (g), and article 5, paragraph (c),

above shall be converted, at the time of transfer and up to their value in the winding-up schedule of assets and liabilities, into Congolese Treasury bonds issued to the order of the Issuing Authority of Ruanda-Urundi, bearing interest at 2.5 per cent per year from 1 October 1960 inclusive, payable in the currency of Ruanda-Urundi and redeemable over a period of five years. Payment of interest and redemption shall be by fixed annual instalments, payable twice yearly to the Issuing Authority of Ruanda-Urundi, the first instalment falling due on 31 March 1961 and the last on 30 September 1965. The Government of the Congo shall deliver to the Issuing Authority of Ruanda-Urundi one bond per instalment, the face amount of which shall be equal to the amount due in principal and interest at the date of maturity of the bond.

Any bond issued under this provision which is still in circulation fifteen days after its date of maturity shall be repurchased at its face value and at the expiry of that period by the Issuing Authority of the Congo from the Issuing Authority of Ruanda-Urundi.

Article 10

The Issuing Authority of the Congo, as security for the discharge of its obligations under article 9 above, and the Issuing Authority of Ruanda-Urundi, as security for the discharge of its obligations under article 7 above, shall each deposit with a bank or institution to be designated by mutual agreement—for example, the Bank for International Settlements, Basle—an amount in gold or in currencies other than the Congolese franc equivalent to 20 per cent of the currency reserves allocated to it under article 3, paragraph (a), above.

The procedure for the application of this article is laid down in the Protocol¹ annexed to, and forming an integral part of, this Convention, the maximum term of such deposits being fixed at twenty months.

Article 11

All transfers and conversions of assets, including premises, furniture and fittings, which are effected under this Convention in favour of the Issuing Authority of the Congo or the Issuing Authority of Ruanda-Urundi, shall be exempted from all taxes, duties, charges and fees in force in the territories subject to the sovereignty of the High Contracting Parties.

Instruments evidencing such transfers and all instruments drawn up in pursuance of this Convention shall be exempted from stamp duty by the High Contracting Parties, and where applicable, shall be entered and registered free of charge.

The taxes payable by shareholders on the payments mentioned in article 5 above may not exceed those payable at the rates in force on 31 August 1960.

¹ See p. 95 of this volume.

Article 12

Decisions relating to the winding-up of the Banque Centrale shall be taken, finally and without recourse, by a Winding-Up Committee, composed of three members, by a majority of votes. The Committee shall have the widest powers, including authority to apply the principles of equity in the apportionments to be made under this Convention between the Issuing Authority of the Congo and the Issuing Authority of Ruanda-Urundi and to give a discharge to the members of the Managing Committee of the Banque Centrale, who shall be responsible for carrying out the winding-up operations and shall constitute a board for that purpose.

The Winding-Up Committee shall comprise one member of Belgian nationality, one member of Congolese nationality, appointed by their respective Governments, and a Chairman designated by agreement between the two other members. If, within one month, either of the High Contracting Parties has not appointed a member, the President of the International Court of Justice at The Hague may be requested by the other High Contracting Party to make the necessary appointment. If agreement has not been reached within one month concerning the appointment of the Chairman of the Committee, he shall be designated by the President of the International Court of Justice at The Hague at the request of either of the High Contracting Parties.

Article 13

Any dispute between the High Contracting Parties concerning the interpretation and application of this Convention shall be submitted to the Chairman of the Winding-Up Committee mentioned in article 12 above.

The Chairman of the Winding-Up Committee shall act as arbitrator. His decision shall be final and enforceable in the territories subject to the sovereignty of the High Contracting Parties without need of exequatur.

Article 14

Until such time as the winding-up is completed, the Banque Centrale shall retain its legal identity and its corporate name, to which shall be added the words "*en liquidation*"

Subject to the provisions of articles 12 and 15 of this Convention, the powers of the corporate organs of the Banque Centrale, shall cease on the entry into force of this Convention or, if at the time of its entry into force the Winding-Up Committee mentioned in article 12 above has not yet been appointed, on the appointment of that Committee.

Article 15

The Banque Centrale shall continue to carry out its functions under the relevant statutes until such time as the Issuing Authority of the Congo and the Issuing

Authority of Ruanda-Urundi declare to the Banque Centrale, each in respect of the matters relating to it, their intention to assume the monetary functions of an issuing authority, the Banque Centrale having the right to cease to perform such functions at six months' notice.

The Banque Centrale may also at any time, even if the whole of its assets and liabilities have been distributed or liquidated, accept such functions as may be entrusted to it by either of the High Contracting Parties or by either of the Issuing Authorities mentioned in this article, provided that the functions concerned are similar to those which it performed before its dissolution.

Article 16

Each of the High Contracting Parties formally notifies the other that it expressly reserves its position concerning responsibility for the reduction which has occurred in the currency reserves of the Banque Centrale.

Article 17

This Convention shall be ratified and the instruments of ratification shall be exchanged at Brazzaville.

Article 18

This Convention shall enter into force on the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have appended their signatures to this Convention.

DONE in duplicate, at New York, on 15 November 1960, in French, both copies being equally authentic.

For the Kingdom of Belgium :

W. LORIDAN

For the Republic of the Congo :

J. BOMBOKO

PROTOCOL ANNEXED TO THE CONVENTION CONCERNING THE WINDING-UP OF THE BANQUE CENTRALE DU CONGO BELGE ET DU RUANDA URUNDI¹

New York, 15 November 1960

The Belgian Government,
The Congolese Government,

In the matter of article 10 of the Convention signed this day¹ concerning the winding-up of the Banque Centrale du Congo belge et du Ruanda-Urundi (hereinafter called "Banque Centrale"),

Have agreed as follows :

1. The deposits mentioned in article 10 of the above-mentioned Convention shall be made by the Banque Centrale at the time of transfer of the currency reserves referred to in articles 3 and 4 of the Convention. The accounts shall be opened by the depositary in the names of the Issuing Authorities to be designated by the Banque Centrale.

2. This Protocol gives the depositary an irrevocable mandate to pay, out of the funds deposited in the name of the Issuing Authority of the Congo, the amount of the Congolese Treasury Bonds maturing on 31 March 1961, 30 September 1961 and 31 March 1962 which may be presented and remitted by the Issuing Authority of Ruanda-Urundi, such payment to be made not less than fifteen days after the date of maturity of such bonds. The depositary shall be advised of the face amount and other particulars of each bond by the Banque Centrale.

This Protocol gives the depositary an irrevocable mandate, as and when such bonds, duly received, are remitted by the Issuing Authority of the Congo, to place at the free disposal of the Issuing Authority of the Congo that portion of the funds deposited in the name of that Authority which exceeds the face amount of the bonds still in circulation.

3. At the time of deposit of the funds in the name of the Issuing Authority of Ruanda-Urundi, the Banque Centrale shall advise the depositary :

(a) of the total amount of the liabilities of the Banque Centrale which the Issuing Authority of Ruanda-Urundi has undertaken to assume under article 2 of the above-mentioned Convention ;

(b) of a percentage figure indicating the relation between the currency reserves allocated to the Issuing Authority of Ruanda-Urundi under articles 3 and 4 of the above-mentioned Convention and the total amount of the liabilities mentioned in paragraph (a) above.

¹ See p. 81 of this volume.

The funds deposited in the name of the Issuing Authority of Ruanda-Urundi shall remain blocked until 80 per cent of the amount of the liabilities mentioned in paragraph (a) have been exchanged. Once that percentage of exchanges is attained, the funds on deposit shall be held at the free disposal of the Issuing Authority of Ruanda-Urundi as and when further notes and coins are exchanged, the amount placed at its disposal being calculated by the application to the further amounts exchanged of the percentage figure advised by the Banque Centrale.

If the whole of the funds on deposit have not been released within a period of twenty months from the date of deposit, the outstanding amount shall be paid to the Issuing Authority of the Congo.

This Protocol gives the depositary an irrevocable mandate to make the payments mentioned above.

4. The notifications made to the depositary by the Banque Centrale under the terms of this Protocol shall be irrevocably binding on the undersigned Governments and on the Issuing Authorities of the Congo and of Ruanda-Urundi.

The depositary shall be validly discharged if it acts in accordance with the provisions of this Protocol and the notifications received from the Banque Centrale. It may at its discretion refer to the depositors or to the undersigned Governments, but is under no obligation to do so.

5. A text of this Protocol, certified by the Banque Centrale to be a true copy of the original, shall be delivered to the depositary by the Banque Centrale at the time of deposit of the funds.

6. The provisions of this Protocol shall automatically become binding on the depositors vis-à-vis the depositary such time as the latter acknowledges to the Banque Centrale its acceptance of the funds on deposit.

7. This Protocol is an integral part of the above-mentioned Convention signed this day, to which it constitutes an annex.

For the Kingdom of Belgium :
W. LORIDAN

For the Republic of the Congo :
J. BOMBOKO

EXCHANGE OF LETTERS

I

New York, 15 November 1960

Sir,

During the conversations which preceded the signing of the Convention concerning the winding-up of the Banque Centrale du Congo belge et du Ruanda-Urundi,¹ I had the honour to bring to your attention the following facts :

¹ See p. 81 of this volume.

1. The various liabilities of the Banque Centrale include those deriving from contracts into which it has entered for the construction of its premises. Two of those contracts are the subject of disputes in course of arbitration. It is appropriate that the Issuing Authorities of the Congo and of Ruanda-Urundi should severally assume the rights and obligations deriving from contracts which relate to the premises allocated to them by the Convention. The Banque Centrale, for its part, will give the new Authorities every assistance in enforcing the rights and obligations thus assumed ;

2. The liability at 31 August 1960 on accounts showing credit balances opened at the Usumbura Branch of the Banque Centrale du Congo belge et du Ruanda-Urundi is abnormally high owing to the fact that banks and branch offices in Ruanda-Urundi have been unable to balance their positions in Congolese francs vis-à-vis Congolose institutions and are consequently in debit with them. This situation is due to the obstacles placed in the way of transfers between banks in Ruanda-Urundi and the Congo after 30 June 1960.

I feel that this situation should be rectified, both in relations between private banks and in respect of accounts showing credit balances with the Banque Centrale before any winding-up takes place—or at least as part of the winding-up operations.

Indeed, in view of the establishment of separate Issuing Authorities and distinct currencies, the liabilities in Congolese francs—which originally would have involved no transfer of cover in gold or foreign currency—could not be liquidated after the separation takes place without jeopardy to the reserves allocated to the Issuing Authority of Ruanda-Urundi.

I have the honour to confirm to you that I can sign the Convention only if I receive an assurance that your Government will take these facts into consideration with a view to an equitable settlement.

I have the honour to be, etc.

For the Belgian Government :

W. LORIDAN

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Belgium
to the United Nations

Mr. J. Bomboko
Minister for Foreign Affairs
of the Republic of the Congo

II

REPUBLIC OF THE CONGO

Office of the Minister for Foreign Affairs

New York, 15 November 1960

Sir,

I have the honour to acknowledge receipt of your letter of 15 November 1960, in which you bring to my attention two facts relating to the Convention of 15 November concerning the winding-up of the Banque Centrale du Congo belge et du Ruanda-Urundi.

Regarding the first point, I signify my agreement that the Banque Nationale du Congo or, failing that, the Monetary Council should contact the Banque Centrale as soon as possible with a view to determining procedures for the transfer of its rights and obligations vis-à-vis the enterprises responsible for the construction of the premises allocated to the Issuing Authority of the Congo under the Convention.

The transfer of those rights and obligations cannot, in any event, modify the rights of Ruanda-Urundi and of shareholders as set forth in the Convention.

Regarding the second point, I have taken careful note of the situation in which Ruanda-Urundi is placed owing to the fact that the banking institutions of Ruanda-Urundi have debit positions vis-à-vis branches established in the Congo. While admitting the cogency of your argument from a technical point of view, I have been unable to agree to your proposal, which is tantamount to an amendment of the Convention. However, the Congolese Government declares its willingness to examine, in the near future, together with the Government responsible for the administration of Ruanda-Urundi, the consequences of the situation mentioned by you, in so far as they may be abnormal, and to arrive at an equitable solution.

I have the honour to be, etc.

For the Congolese Government :

J. BOMBOKO
Minister for Foreign Affairs

Mr. W. Loridan
Permanent Representative of Belgium
to the United Nations
New York 20, N.Y.