

No. 7071

BELGIUM
and
LUXEMBOURG

**Convention regarding examination at the Belgian-Luxembourg frontier (with Protocol of signature).
Signed at Luxembourg, on 29 November 1961**

Official text: French.

Registered by Belgium on 17 January 1964.

BELGIQUE
et
LUXEMBOURG

Convention relative aux contrôles à la frontière belgo-luxembourgeoise (avec Protocole de signature). Signée à Luxembourg, le 29 novembre 1961

Texte officiel français.

Enregistrée par la Belgique le 17 janvier 1964.

[TRANSLATION — TRADUCTION]

No. 7071. CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND THE GRAND-DUCHY OF LUXEMBOURG REGARDING EXAMINATION AT THE BELGIAN-LUXEMBOURG FRONTIER. SIGNED AT LUXEMBOURG, ON 29 NOVEMBER 1961

His Majesty the King of the Belgians and Her Royal Highness the Grand Duchess of Luxembourg,

Desirous of regulating the reciprocal relations between the two States with a view to facilitating further the crossing of the common frontier by road and railway, have decided to conclude a convention and have appointed for this purpose as their plenipotentiaries :

His Majesty the King of the Belgians :

Baron M.-F. de Séllys Longchamps, Ambassador of Belgium to Luxembourg;

Her Royal Highness the Grand Duchess of Luxembourg :

Mr. Eugène Schaus, Minister for Foreign Affairs,

who, having exchanged their full powers, found in good and due form, have agreed to the following provisions :

PART I

GENERAL PROVISIONS

Article 1

- (1) The two States shall facilitate, within the framework of this Convention, the crossing of their common frontier by road and railway.
- (2) For the purposes defined in paragraph (1) :
 - (a) They shall establish Joint National Control Offices in stations or on roads in the immediate vicinity of the frontier;
 - (b) They shall permit examination on trains in motion on specified sectors;
 - (c) They shall authorize officials of each of the two States who are responsible for examinations in the cases mentioned at (a) and (b) above to perform their duties on the territory of the other State.

¹ Came into force on 1 January 1964, the first day of the second month following the exchange of the instruments of ratification which took place at Brussels on 29 November 1963, in accordance with article 29.

(3) The competent Ministers of the two States shall determine, by mutual agreement, in which cases and to what extent examination by one of the States shall take place on the territory of the other State.

Arrangements concerning the establishment, transfer or abolition of Joint National Control Offices, the determination of the sectors on which trains may be examined while in motion and the delimitation of the zone in accordance with article 3, shall enter into force after an exchange of notes effected through the diplomatic channel.

Article 2

For the purpose of this Convention :

1. The term "examination" shall mean the execution of all measures required by the laws and regulations of the two countries and applying to persons, baggage, merchandise, vehicles and other goods crossing the frontier in either direction;
2. The term "zone" shall mean the specified part of one of the countries, and the train in motion, in which the officials of the adjoining country are authorized to conduct examinations;
3. The term "country of sojourn" shall mean the country on whose territory the zone is located;
The term "adjoining country" shall mean the other country;
4. The term "officials" shall mean the persons who belong to the Departments responsible for examinations and perform their duties within the zone.
5. The term "offices" shall mean the two countries' Joint National Control Offices located within the zone.

Article 3

The zone shall comprise :

1. With regard to railway traffic :
 - A. In the case of examinations held in offices :
 - (a) A specified area of the station and its outbuildings;
 - (b) Passenger trains or goods trains and a specified section of the track on which they stand throughout the period of the examination;
 - (c) A specified section of the platforms and the tracks situated on either side of the halted trains;
 - (d) Passenger trains and goods trains between the station and the frontier of the adjoining country;

- B. In the case of examinations held in a moving train : the train on a specified sector and, possibly, a specified section within the station where this sector begins and within the station where it ends;
2. With regard to road traffic, in which case the zone shall extend up to the frontier :
- (a) A portion of the road;
 - (b) Possibly, part of the service buildings and their annexes.

Article 4

The laws and regulations of the adjoining country relating to examinations shall be applicable within the zone in accordance with the provisions of this Convention, as they shall apply within a commune to be designated for this purpose by the Government of the aforesaid country. Violations of the aforesaid laws and regulations, committed on the territory of the country of sojourn, shall be deemed to have been committed on the territory of the adjoining country in that commune.

Article 5

This Convention shall not prejudice the powers of the authorities of the country of sojourn with respect to the right to maintain law and order in the zone and to take action with regard to offences, committed in the zone, which do not constitute violations of the laws and regulations governing examination.

Article 6

- (1) When a person is caught in the zone committing an offence of the type mentioned in article 5, that person may be arrested by the authorities of the country of sojourn under the conditions specified in the laws of that country.
- (2) Nevertheless, such arrest shall be subject to the consent of the officials of the adjoining country if the offence is committed while those officials are conducting examination or when the person concerned is, in pursuance of article 9, paragraph (1), apprehended by them and held in custody pending his transfer to the adjoining country.

Article 7

- (1) With respect to examinations within the zone, operations of the country of exit shall be completed before the corresponding operations of the country of entry are carried out.
- (2) As soon as the officials of the country of entry have begun their operations :
- (a) The laws and regulations of the country of entry in respect of examinations shall become applicable;

- (b) If the adjoining country is the country of exit, the corresponding officials of that country shall desist from examining persons, baggage, merchandise, vehicles and other goods;
 - (c) If the country of sojourn is the country of exit, the corresponding officials of that country shall desist from re-examining persons, baggage, merchandise, vehicles and other goods which they have cleared, unless in a duly justified case and subject to the consent of the competent local authorities of the country of entry.
- (3) Until the exit examination of the adjoining country has been completed, the authorities of the country of sojourn may not within the zone apprehend persons or seize baggage, merchandise, vehicles, and other goods which are subject to such examinations.
- (4) After the entry examination of the adjoining country has begun, the authorities of the country of sojourn shall not within the zone apprehend persons or seize baggage, merchandise, vehicles and other goods which are subject to such examination, if the officials of the adjoining country have already done so.

Article 8

- (1) In respect of road traffic, the authorities of the country of sojourn may not apprehend or prevent the entry of persons, who, coming from the adjoining country, are only temporarily visiting the offices of the latter country in the zone, for reasons other than the crossing of the frontier.
- (2) The authorities of the country of sojourn may take special measures of surveillance with regard to the persons mentioned in paragraph (1).

Article 9

- (1) The officials of the adjoining country may, within the framework of this Convention, carry out in the zone all operations connected with the examinations specified by the laws and regulations of the aforesaid country, as if they were on their own territory. In particular, they may investigate offences, effect seizures, accept settlements in respect of the offences investigated and confiscate baggage, merchandise, vehicles and other goods as security for duties or fines.
- (2) They may transfer to the territory of the adjoining country funds derived from the collection of taxes, service charges or fines, as well as baggage, merchandise, vehicles and other goods stopped, held or seized.
- (3) They may also arrest persons violating the regulations in regard to the transit of the frontier, prevent the entry of persons, and transfer the persons apprehended to the adjoining country. In respect of Joint Control Offices situated in the vicinity of the frontier, they may, in addition, arrest persons who are wanted by the competent authorities of the adjoining country.

Article 10

Return to the country of exit shall not be denied to persons who have been refused entry by officials of the country of entry.

Article 11

(1) The officials of the two countries shall assist one another to the fullest possible extent in performing their duties within the zone, and in particular with a view to preventing and detecting offences committed against the laws and regulations concerning transit of the frontier. For this purpose they shall furnish each other as rapidly as possible with information likely to be of use in the operation of the service.

(2) The provisions in paragraph (1) shall not prejudice any future domestic laws and regulations making the communication of information subject to authorization by other authorities.

PART II

OFFICIALS

Article 12

The authorities of the country of sojourn shall grant to officials of the adjoining country who are performing their duties within the framework of this Convention the same protection and assistance as they grant to the corresponding officials of their own country.

Article 13

In the case of an offence committed within the zone against officials of the adjoining country in the performance of their duties, the same criminal laws as those restraining a similar act committed against officials of the country of sojourn who are assigned to a corresponding service shall apply.

Article 14

(1) Officials of the adjoining country appointed under the terms of this Convention to perform their duties on the territory of the country of sojourn may wear the national or a visible distinctive badge.

(2) They are authorized to bear regulations arms, but may use them only in self-defence.

Article 15

The competent Departments of the two countries shall grant every other facility with a view to the officials performing their duties under the most favourable conditions.

Article 16

If an official of the adjoining country appointed, under the terms of this Convention, to perform his duties on the territory of the country of sojourn suffers injury in an accident during or as a result of his work and if the railway administration of the latter country is responsible for such injury, the railway administration of the adjoining country shall assume responsibility for payment of the compensation due from the railway administration of the country of sojourn, without submitting a claim against the latter administration.

Article 17

The provisions of articles 12 to 15 inclusive shall apply to the staff of the railway administration of one of the countries who, on the territory of the other country, perform their duties in stations where joint examinations are held or in trains moving between those stations and the frontier.

PART III

OFFICES

Article 18

- (1) The competent Department shall determine by mutual agreement :
 - (a) What premises are needed for the offices of the adjoining country, and what compensation should be paid for such premises, e.g. for rent, lighting, heating and cleaning;
 - (b) What compartments shall be reserved for officials responsible for examinations on moving trains.
- (2) If the railway administration of the adjoining country is obliged, under the laws of that country, to supply premises to the examining authorities and to perform other services for their benefit, the railway administration of the country of sojourn shall comply, against compensation, with a request of this nature made by the railway administration of the adjoining country.

Article 19

The premises allotted to the offices of the adjoining country may be distinguished, on the outside, by a notice and a shield bearing the national colours of that country.

Article 20

In premises placed at their exclusive disposal, officials of the adjoining country shall be entitled to maintain order and to expel persons disturbing that order.

Article 21

- (1) The telephone and telegraph (including teletype) lines required for the operation of the offices of the adjoining country situated in the country of sojourn may be extended on the territory of the latter country, in order to enable direct communication with those offices to be maintained.
- (2) The Governments of the two States undertake to grant, for the same purposes and to the fullest possible extent, all facilities in connexion with the utilization of other means of telecommunication.
- (3) The competent Departments of the two States shall by mutual agreement take the necessary steps with a view to the application of paragraphs (1) and (2).

Article 22

Letters, parcels and consignments of value dispatched by or to the offices of the adjoining country may be carried post-free by officials of the latter country without intervention on the part of the postal or railway administrations, provided that such matter bears the seal of the dispatching services.

Article 23

The provisions of articles 19 to 22 inclusive shall apply to railway administration services of either country which, on the territory of the other country, operate in stations where joint examinations are effected.

Article 24

Persons from the adjoining country may complete all examination formalities in that country's customs offices situated in the country of sojourn which would be carried out in the adjoining country itself.

Article 25

(1) Article 24 applies especially to persons from the adjoining country who in a professional capacity carry out the activity referred to in that article. When engaging in such activity, the aforesaid persons shall be subject to the laws and regulations governing the matter in the adjoining country, and not to those of the country of sojourn. The services so rendered, in the case of turnover tax (in Belgium, transfer tax and similar taxes), shall be deemed services rendered exclusively in the adjoining country. The present paragraph does not refer to the levying of direct taxes (income taxes, taxes on property, etc.).

(2) Persons referred to in paragraph (1) may employ either Belgian or Luxembourg staff for the exercise of their activity in customs offices of the adjoining

country situated in the country of sojourn. The laws and regulations of the country of sojourn governing the employment of foreign workers shall not apply in this case.

(3) General regulations of the country of sojourn shall apply to the crossing of the frontier and to sojourn in the aforesaid country. Facilities consistent with these provisions must be granted.

PART IV

FINAL PROVISIONS

Article 26

The competent Ministers of the two States shall determine by mutual agreement the necessary administrative measures for the application of this Convention. Such procedure shall not exclude the use of diplomatic channels.

Article 27

The Governments of the two States may, by simple exchange of diplomatic notes and subject to the approval of the legislature if required by national law, agree to make such amendments to this Convention as may prove desirable in the light of experience.

Article 28

Measures taken in execution of article 1, paragraph (2) (a) and (b), may be terminated either by mutual agreement or at the request of one of the States. In the latter case, the State whose services are to be retransferred to its territory may claim a period of grace which shall not exceed twelve months from the date of the request.

Article 29

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Brussels.

(2) It shall enter into force on the first day of the second month following the exchange of the instruments of ratification.

(3) It shall terminate one year after it has been denounced by one of the States.

IN FAITH WHEREOF the plenipotentiaries have signed this Convention and have affixed thereto their seals.

DONE at Luxembourg, on 29 November 1961, in duplicate in the French language.

For the Kingdom
of Belgium :

M.-F. DE SÉLYS LONGCHAMPS

For the Grand Duchy
of Luxembourg :

E. SCHAUS

PROTOCOL OF SIGNATURE

At the moment of signing the Convention bearing today's date,¹ the undersigned, duly authorized, have agreed as follows :

1. In cases and under conditions determined by the competent Ministers of Belgium and the Grand Duchy of Luxembourg, the officials of each of these countries may on behalf of the other country collect taxes, other than joint taxes, which are due on account of the crossing of the common frontier, when such procedure is calculated to facilitate the crossing of the frontier.

2. The taxes referred to in sub-paragraph 1 include :

(a) For Belgium : excise duties, the special consumption tax, the transfer tax and similar taxes;

(b) For the Grand Duchy of Luxembourg : the consumption tax and the turnover tax.

DONE at Luxembourg, on 29 November 1961, in duplicate in the French language.

For the Kingdom
of Belgium :

M.-F. DE SÉLYS LONGCHAMPS

For the Grand Duchy
of Luxembourg :

E. SCHAUS

¹ See p. 39 of this volume.