

No. 9139

BELGIUM, LUXEMBOURG and NETHERLANDS

Convention concerning co-operation in the regulation of imports, exports and transit traffic. Signed at The Hague, on 16 March 1961

Official texts: French and Dutch.

Registered by Belgium on 17 June 1968.

BELGIQUE, LUXEMBOURG et PAYS-BAS

Convention relative à la coopération en matière de réglementation des importations, des exportations et du transit. Signée à La Haye, le 16 mars 1961

Textes officiels français et néerlandais.

Enregistrée par la Belgique le 17 juin 1968.

[TRANSLATION — TRADUCTION]

No. 9139. CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM, THE GRAND DUCHY OF LUXEMBOURG AND THE KINGDOM OF THE NETHERLANDS CONCERNING CO-OPERATION IN THE REGULATION OF IMPORTS, EXPORTS AND TRANSIT TRAFFIC. SIGNED AT THE HAGUE, ON 16 MARCH 1961

His Majesty the King of the Belgians,

Her Royal Highness the Grand Duchess of Luxembourg,

Her Majesty the Queen of the Netherlands,

Referring to the Treaty instituting the Benelux Economic Union, signed at The Hague on 3 February 1958,² and in particular to articles 3, 11, 76 and 83,

Considering that under article 76 of the said Treaty the High Contracting Parties have undertaken to conclude a convention regulating, *inter alia*, mutual assistance in applying legal and executive provisions regarding imports, exports and transit goods as well as in preventing and combating offences against these provisions,

Considering that under article 83 of the said Treaty the High Contracting Parties have undertaken to conclude a convention regulating, *inter alia*, mutual assistance in everything concerning the collection and recovery of the duties, taxes and imposts referred to in articles 11 and 78 of the said Treaty as well as in preventing and combating abuses,

Have for that purpose decided to conclude a convention and have appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

His Excellency Baron F. X. van der Straten-Waillet, Ambassador Extraordinary and Plenipotentiary at The Hague;

Her Royal Highness the Grand Duchess of Luxembourg :

His Excellency J. P. Kremer, Ambassador Extraordinary and Plenipotentiary at The Hague;

Her Majesty the Queen of the Netherlands :

His Excellency J. M. A. H. Luns, Minister for Foreign Affairs, who, having exhibited their full powers, found in good and due form have agreed on the following provisions :

¹ Came into force on 26 January 1968, i. e. the day following the deposit of the third instrument of ratification, in accordance with article 27.

² United Nations, *Treaty Series*, Vol. 381, p. 165.

CHAPTER I

SCOPE

Article 1

1. This Convention shall relate to the application of such laws and regulations of the three countries regarding imports, exports and transit traffic as are designated by the Committee of Ministers referred to in article 15 of the Treaty instituting the Benelux Economic Union (hereinafter called the Committee of Ministers).

2. The Committee of Ministers shall make such designations whenever it becomes necessary to do so for the purpose of realizing the aims of the Treaty instituting the Benelux Economic Union.

CHAPTER II

DOCUMENTS AND INSPECTION MARKINGS

Article 2

1. Any document relating to imports, exports or transit traffic issued or authenticated in the name of a particular person by an authority of one of the three countries which, according to information given by that country to the other two countries, is competent to issue or authenticate such a document shall be regarded in the other countries as having been issued or authenticated in the name of the said person, subject to the conditions governing its use, by the competent national authority.

2. Any other document authorizing import, export or transit in one country under the laws and regulations there in force shall be regarded as authorizing import, export or transit in the other countries under the corresponding laws and regulations of those countries.

Article 3

Statements made on the documents referred to in article 2 by the officials of one country responsible for supervising the utilization of the said documents shall have the same value in the other countries as if they had been made by officials of those countries.

Article 4

Inspection markings (embossed seals, impressed stamps, punched seals, lead seals, wax seals, adhesive stamps, etc.) affixed to documents, goods or vehicles by officials of one country shall be regarded in the other countries as equivalent to markings affixed by officials of those countries.

CHAPTER III

ADMINISTRATIVE CO-OPERATION

Article 5

1. The authorities designated for the purpose by the competent ministers of each country shall, within the limits of their respective spheres of competence, transmit to each other, of their own motion or on request, all information relating to the application of the laws and regulations referred to in article 1.

2. In order to obtain information requested by the authorities designated by one country, the authorities designated by the other country may cause official inquiries to be made. The powers provided in comparable cases under domestic laws and regulations may be used for that purpose.

3. Information obtained under paragraph 1 may be used only for purposes of the application of the laws and regulations referred to in article 1 and may be transmitted by the authority which receives the information to those who have need of it for that purpose. It may be transmitted to other persons only with the express consent of the authority providing the information and in so far as such transmittal is authorized by the national legislation of the authority receiving the information.

CHAPTER IV

OFFENCES

Article 6

1. In each of the countries, the laws and regulations in force with regard to imports, exports or transit traffic shall apply even where an offence has been committed in the territory of the other countries. The said laws and regulations shall apply not only to imports, exports or transit traffic across the frontier of the country in question but also to imports, exports or transit traffic across a frontier between one of the other countries and a third country. Save as otherwise provided in this Convention, the laws and regulations applicable to an offence shall include domestic penal provisions.

2. Chapters V, VI and VII of this Convention shall apply in the case of offences against the laws and regulations referred to in paragraph 1.

CHAPTER V

PROSECUTION OF OFFENDERS

Article 7

1. Proceedings in respect of offences shall be instituted in the country in which the offences are committed. Where an offence is such that it extends into

more than one country, it shall be deemed to have been committed in the country in which the initial act is committed.

2. Where, however, the fact of an offence is established in a country other than that referred to in paragraph 1 and the accused has his residence in that country, the competent authority of the country of residence may investigate the case; if, within fourteen days after receiving the notification which shall be given to it, the competent authority of the country referred to in paragraph 1 does not ask to assume jurisdiction in the case, the authority of the country of residence may itself institute proceedings.

Article 8

1. Where jurisdiction cannot be determined with certainty in accordance with the rules set out in article 7, proceedings in respect of an offence shall be instituted in the country where the accused has or was last known to have his residence.

2. In the absence of any other circumstance determining jurisdiction, the latter shall lie with the country in which the fact of the offence is established.

3. The country in which proceedings have been instituted shall retain jurisdiction even if the country in which the offence was committed or the country in which the accused has or had his residence subsequently becomes known.

Article 9

If a request to that effect is made by the prosecuting authority of the country in which, under the provisions of article 7, paragraph 1, proceedings in respect of the offence are to be instituted and if paragraph 2 of the said article is not applicable, proceedings may also be instituted in the country in which the accused has his residence.

Article 10

Where a number of persons have taken part in the same offence, jurisdiction in respect of one of them shall give rise to jurisdiction in respect of the others.

Article 11

Conviction of an offence on one country shall have the same consequences in criminal law in the other countries, in the event of a repetition of the offence, as if the judgement of conviction had been rendered in those countries.

Article 12

1. Reports concerning an offence drawn up by the officials of one country in the form and under the conditions prescribed by the laws and regulations of

their country shall have in the other countries the same value as evidence that they would have if they were reports legally drawn up by the competent officials of those countries. Where in one country such reports must be drawn up by a specified number of officials, however, reports drawn up in the other countries shall have value as evidence in the first-mentioned country only if they are drawn up by at least the same number of officials.

2. Similarly, all other official acts performed in one country, in accordance with the laws and regulations there in force, with a view to instituting proceedings in respect of an offence and assembling evidence shall have in the other countries the same value as if they had been performed there by the competent authorities in accordance with the laws and regulations of those countries.

3. The reports and acts referred to in paragraphs 1 and 2 shall, *inter alia*, have the effect of interrupting in the other countries the process of acquisition of immunity from prosecution by lapse of time, provided that comparable reports and acts produce that effect in the said countries.

CHAPTER VI

MUTUAL ASSISTANCE IN CONNEXION WITH OFFENCES

Article 13

Officials of one country competent to investigate offences may co-operate in another country, with the consent of the competent officials of the latter country, in the acts performed by those officials for the purpose of investigating similar offences and establishing the fact of their commission; subject to those conditions, they shall act with the same powers and their acts shall have the same effects as in the case of the officials whom they are assisting.

Article 14

1. Officials of one country competent to investigate offences who, in their own country, take steps to pursue a person under conditions giving them legal authority to detain, search and, if necessary, arrest the fugitive or to search and, if necessary, seize goods and vehicles shall be entitled to enter the territory of another country in pursuit of the fugitive, goods or vehicles and, if the pursuit is not abandoned, to perform in that country, within the limits of its laws and regulations, the duties which they would have performed in their own country, save that they may not arrest the fugitive. They may, however, conduct the latter promptly to the police authorities in order to establish his identity if he cannot or will not give proof of it.

2. Except in cases where their activities admit of no delay, officials engaged in the pursuit of a fugitive must enlist the co-operation of competent officials of the country whose territory they have entered.

3. Goods and vehicles which have been seized shall be delivered to the officials of the country in which they were seized to be kept until a decision is taken regarding the disposition to be made of them.

Article 15

1. The three countries shall assist one another in preventing offences and in punishing offenders.

2. The competent ministers of each country shall designate from among the authorities competent under national law those which shall act as the competent authorities in the application of each of the articles of this chapter.

Article 16

1. The competent authorities of each country shall transmit to each other, of their own motion or on request, all information with regard to existing or anticipated actions or circumstances which gives reason to believe that an offence has been or will be committed.

2. The provisions of article 5, paragraph 3, last sentence, shall apply to the transmittal of information to third parties.

Article 17

1. At the direct request of the competent authorities of one country, the competent authorities of the country to which the request is made may cause the following measures to be taken :

- (a) Official inquiries, including the interrogation of persons sought in connexion with offences and of witnesses or experts;
- (b) The seizure, on the responsibility of the requesting authorities, of goods or vehicles which are subject to confiscation in the requesting country;
- (c) The service on accused or convicted persons of legal documents and judicial or administrative decisions.

2. Such measures shall be taken in conformity with the laws and regulations in force in the country to which the request is made and by officials competent to act in cases where a similar offence is committed in the territory of that country.

3. If the request is not complied with, the competent authorities of the country to which the request was made shall immediately so inform the competent authorities of the requesting country in writing, indicating the reasons for non-compliance.

Article 18

1. Officials of one country competent to investigate offences who have been duly authorized by the competent authorities of their country may, with the

consent of the competent authorities of another country, secure information from records, registers and other documents held by the administrative offices of that country.

2. The requesting officials may make copies of documents and refer in their records, reports and depositions, as well as in judicial proceedings, to the information obtained and the documents consulted.

Article 19

Officials of one country duly authorized by their respective administrative organs may give evidence, before courts of another country in which proceedings are under way in respect of an offence, concerning facts which they have established in the exercise of their functions.

Article 20

Where a sentence in respect of an offence is subject to execution in the country in which it is pronounced, property owned by the convicted person in another country may, after an exequatur has been obtained there, be attached for the recovery of fines and costs or confiscated, subject to compliance with the laws and regulations of that country. The authority responsible for executing the sentence in the first-mentioned country shall, for that purpose, address a direct request, accompanied by a copy of the decision, to the competent authority of the other country.

Article 21

1. The proceeds from fines collected and confiscations effected in a country other than that entitled under articles 7 and 8 to institute proceedings shall be turned over to the latter country after deduction of the costs incurred. The same shall apply to sums of money and goods due to the other country as the result of a transaction.

2. At the request of the country entitled under articles 7 and 8 to institute proceedings, goods and vehicles seized in the cases provided for in article 14 or confiscated pursuant to a judicial decision or under a provision of law shall be turned over to the country in question by the administrative authority which has custody of them and the said country may, if it wishes, transfer them to its own territory.

CHAPTER VII

GENERAL PROVISIONS

Article 22

1. Officials of one country who, under the conditions specified in this Convention, perform their functions in another country shall enjoy there the

protection and assistance accorded to the corresponding officials of that country under its laws and regulations. They shall be placed on an equal footing with the last-mentioned officials as regards any offences of which they are the victims or which they themselves commit.

2. In performing their functions, they may wear their uniform or a visible distinctive badge and carry their service weapons. They must be able at all times to produce a document attesting to their official status.

3. Where necessary, they shall be entitled to use such means of compulsion and defence as may legally be employed by the corresponding officials of the country in which they are performing their functions.

Article 23

Motor vehicles, bicycles and other means of transport used by the officials referred to in the preceding article in the exercise of their duties in another country shall be exempt from taxes and other charges which would normally be payable for such use.

Article 24

Costs incurred by one country or by its officials in complying with a request or requisition by another country shall be reimbursed, upon the production of supporting documents, in accordance with procedures to be determined by agreement between the competent ministers.

CHAPTER VIII

SUSPENSION OF THE APPLICATION OF THE CONVENTION

Article 25

1. The Committee of Ministers may, to such extent as it determines, suspend until a date which it shall subsequently fix the application of the Convention in respect of laws and regulations designated pursuant to article 1. The suspension may, *inter alia*, apply to all or part of the Convention or to all or part of the laws and regulations or be limited to certain goods. Different dates may be fixed for the end of the suspension, depending on the matters to which it applies.

2. Suspensions may not have the effect of impeding the realization of the aims of the Treaty instituting the Benelux Economic Union.

3. The Committee of Ministers shall suspend the application of the Convention only after having obtained an advisory opinion from the Consultative Interparliamentary Council, save where, because of the urgency of the situation, it is not possible to request such an opinion or to obtain it in time. In such

cases, the Committee shall report to the Council at the earliest possible date both on the measures taken and on the circumstances which led to them.

4. Paragraph 3 shall not apply to suspensions which have the effect of suspending the application of the Convention in respect of laws and regulations designated at the same time pursuant to article 1 or which result from measures or decisions taken under articles 14 and 66 of the Treaty instituting the Benelux Economic Union.

CHAPTER IX

FINAL PROVISIONS

Article 26

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

Article 27

1. This Convention shall be ratified, and the instruments of ratification shall be deposited with the General Secretariat of the Benelux Economic Union.

2. The Convention shall enter into force on the day following the deposit of the third instrument of ratification.

3. The Convention shall cease to have effect at the same time as the Treaty instituting the Benelux Economic Union.

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

DONE at The Hague on 16 March 1961, in triplicate in the French and Dutch languages, both texts being equally authentic.

For the Kingdom of Belgium :

VAN DER STRATEN

For the Grand Duchy of Luxembourg :

J. KREMER

For the Kingdom of the Netherlands :

J. LUNS