

No. 10527

FRANCE
and
LUXEMBOURG

Convention relating to adjoining national control offices and inspections in moving vehicles. Signed at Luxembourg on 21 May 1964

Authentic text: French.

Registered by France on 8 June 1970.

FRANCE
et
LUXEMBOURG

Convention relative aux bureaux à contrôles nationaux juxtaposés et aux contrôles en cours de route. Signée à Luxembourg le 21 mai 1964

Texte authentique: français.

Enregistrée par la France le 8 juin 1970.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN FRANCE AND THE GRAND
DUCHY OF LUXEMBOURG RELATING TO ADJOINING
NATIONAL CONTROL OFFICES AND INSPECTIONS IN
MOVING VEHICLES

The President of the French Republic and Her Royal Highness the Grand Duchess of Luxembourg, desiring to facilitate the crossing of the frontier between the two countries by rail, road and waterway, have decided, for this purpose, to conclude a Convention relating to adjoining national control offices and inspections in moving vehicles and have accordingly appointed as their respective plenipotentiaries:

For the President of the French Republic:

Mr. Jean de Lagarde, Ambassador Extraordinary and Plenipotentiary to Luxembourg;

For Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Eugène Schaus, Minister for Foreign Affairs, and
Mr. Pierre Werner, Minister of Finance,

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

PART I

GENERAL PROVISIONS

Article 1

For the purpose of this Convention, the following definitions shall be used:

1. "Inspection": the application of all the laws, regulations and administrative provisions of the two States concerning the crossing of the frontier by persons, and the entry, exit and transit of baggage, merchandise, vehicles and other goods;

¹ Came into force on 2 October 1969 by the exchange of the instruments of ratification, which took place at Paris, in accordance with article 30.

2. "Transit State": the State in whose Territory the inspection by the other State is conducted;
3. "Adjoining State": the other State;
4. "Zone": that part of the territory of the transit State within which the officials of the adjoining State are authorized to conduct inspections;
5. "Officials": persons who are members of the departments responsible for inspection and who perform their duties in the adjoining national control offices or in moving vehicles;
6. "Offices": the adjoining national control offices.

Article 2

1. With a view to simplifying and expediting the formalities relating to the crossing of their common frontier by rail, road and waterway, the Contracting Parties may, within the framework of this Convention,

- (a) establish offices situated on both sides, or on only one side, of the frontier;
- (b) conduct inspections in moving vehicles on specified sections of route.

They shall therefore authorize the officials of one of the two States to perform their duties in the territory of the other State.

2. The establishment, transfer, modification or discontinuance:

- (a) of offices,
- (b) of sections of route on which inspections may be conducted in transit,

shall be the subject of arrangements which shall provide for delimitation of the zone and shall enter into effect after an exchange of diplomatic notes.

3. In case of emergency, the authorities concerned may, by mutual agreement, make such amendments as may prove necessary to the original delimitation of the zone. The arrangement thus concluded shall enter into effect immediately.

4. When an arrangement concluded under paragraph 2 above does not include within the zone a section of territory referred to in article 3, it may provide for the application, in that section, of certain provisions of this

Convention or for the recognition of certain rights and obligations resulting from it, in particular, the retention of the right of surveillance by officials of the adjoining State.

Article 3

The zone may consist of:

1. In the case of rail traffic:

- (a) a part of the station and its annexes;
- (b) passenger or goods trains and a specified section of the track and platforms where they stand during the period of inspection;
- (c) passenger or goods trains on the section of route between the station and the common frontier, the section of track between the frontier and the office, and parts of the stations situated on that section of route;
- (d) in the case of inspection on a train in transit, the train on the specified section of its route and, if necessary, a sector of the stations at which that section of the train's route begins and ends.

2. In the case of road traffic:

- (a) a part of the service buildings;
- (b) sections of the road and other installations;
- (c) any stores and warehouses;
- (d) the road between the frontier and the office;
- (e) in the case of inspection on a vehicle in transit, the vehicle on the specified section of its route and a sector of the buildings and installations at which that section of the vehicle's route begins and ends.

3. In the case of traffic by waterway:

- (a) a part of the service buildings;
- (b) sections of the waterway as well as riverside and port installations, including quays;
- (c) stores and warehouses;
- (d) the waterway between the frontier and the office;
- (e) when the inspection is conducted on a vessel in transit, this vessel and the accompanying inspection vessel on the specified section of its route.

PART II

INSPECTION

Article 4

1. The laws, regulations and administrative provisions of the adjoining State regarding inspection shall be applied in the zone in the same way as they are applied in the territory of the adjoining State. They shall be applied by the officials of that State to the same extent, under the same conditions, and with the same consequences as in their own country.

The commune to which the office of the adjoining State is attached for this purpose shall, if necessary, be designated by the Government of that State.

2. However, the officials of the adjoining State may not arrest within the zone or remove to their territory persons who are not proceeding to the aforesaid State, unless they violate in the zone the laws, regulations or administrative provisions of the adjoining State relating to customs inspection.

3. When the laws or regulations of the adjoining State relating to inspection are violated in the zone, the courts of the adjoining State shall be competent and shall rule precisely as if such offences had been committed in the territory of that State.

Article 5

1. Inspection by the country of exit shall be effected before inspection by the country of entry.

2. The officials of the country of entry may not begin their inspection until completion of inspection by the country of exit, to which any form of waiver of such inspection shall be treated as equivalent.

3. As soon as the officials of the country of entry begin their operations:

- (a) the laws, regulations and administrative provisions of the country of entry relating to inspection shall become applicable;
- (b) the officials of the country of exit shall no longer be entitled to resume inspection of persons, baggage, goods, vehicles or other property which they have already cleared. As an exceptional measure, such inspection may be resumed with the consent of the competent officials of the country of entry.

4. If for practical reasons the order provided for in paragraph 1 above is modified during inspections, the officials of the country of entry may make arrests or seizures only after inspection by the country of exit has been completed. If they wish to take such action, they shall take the persons, goods or other property in respect of which inspection by the country of exit has not yet been completed, to the officials of that country. If the latter officials wish to make arrests or seizures, they shall have priority.

Article 6

The officials of the adjoining State may freely transfer to the territory of their State any sums of money collected in the zone, as well as any goods or other property held or seized therein. They may also sell such articles in the transit State provided that they comply with the import or transit laws in force and may freely transfer the proceeds to the adjoining State.

Article 7

1. Goods whose importation into the adjoining State has been refused by officials of that State at the time of the exit inspection or which have been returned to the adjoining State at the request of the person concerned, before commencement of the entry inspection in the transit State, shall not be subject to the export regulations in force in, or the exit inspection conducted by, the transit State.

2. Persons or goods turned back by officials of the country of entry may not be refused re-entry into the country of exit, subject to the provisions in force between the Contracting Parties concerning the acceptance of persons at the frontier.

Article 8

1. The officials of the two States shall help each other as much as possible in the discharge of their duties in the zone, and particularly in providing for the continuity of their respective inspection operations and in the prevention and detection of violations of inspection regulations; they shall, to the fullest extent possible, communicate to each other, either on their own initiative or on request, all information which may be of importance for the proper discharge of their duties.

2. Any goods or other property originating in the adjoining State and withheld in the zone from inspection by the officials of that State shall, if seized by the officials of the transit State, be handed over as a matter of priority to the officials of the adjoining State. If it is established that the export regulations of the adjoining State have not been violated, the aforesaid articles shall be handed over to the officials of the transit State.

3. At the request of the officials of the adjoining State, the competent authorities of the transit State shall conduct hearings of witnesses and experts, as well as official investigations, and shall communicate the results thereof to the aforesaid officials. They shall also issue to the witnesses and experts concerned summonses to appear before the authorities of the adjoining State and shall notify any person who has been charged or sentenced of any procedural measures or administrative decisions that have been taken. The laws of the transit State concerning the procedure for the prosecution of offences of the same kind shall apply *mutatis mutandis*.

4. The assistance provided for in paragraph 3 above shall, however, be limited to violations of the customs regulations governing the crossing of the frontier, offences committed in the zone and detected at, or immediately after, the time when they were committed.

PART III

OFFICIALS

Article 9

1. The authorities of the transit State shall grant to the officials of the adjoining State the same protection and assistance in the performance of their duties in the zone as they grant to their own officials.

2. The penal provisions in force in the transit State for the protection of officials in the performance of their duties shall also apply to offences committed against officials of the adjoining State.

Article 10

Claims for compensation for damage or injury caused by the officials of the adjoining State in the performance of their duties in the zone shall be subject to the law and jurisdiction of the adjoining State, as though the damage or injury had occurred in that State.

Article 11

1. Officials of the adjoining State shall be authorized to cross the frontier and to proceed to their place of work simply on production of official documents proving their identity and title.

2. The competent authorities of the transit State reserve the right to request the authorities of the adjoining State to withdraw certain officials.

Article 12

Officials of the adjoining State may, in the transit State, wear their national uniform or a visible distinctive badge; they may, in the zone and when travelling between their place of work and residence, bear their regulation arms. The use of the aforesaid arms, in the zone, shall however be authorized only in self-defence.

Article 13

Officials of the adjoining State may not be arrested by the authorities of the transit State as a result of acts committed in the zone in the performance of their duties. They shall, in that case, be answerable to the authorities of the adjoining State, as though the aforesaid acts had been committed in that State.

Article 14

1. Officials of the adjoining State who reside in the transit State shall, with respect to the conditions relating to their place of residence, comply with the requirements of the competent authorities, in accordance with the provisions relating to the presence of aliens. They shall, if necessary, be provided with residence permits free of charge.

2. Residence permits may not be withheld from spouses, minor children and parents who live in the same household as the officials concerned and who are not engaged in any remunerative activity unless they are personally affected by a decision prohibiting entry into the transit State. The aforesaid persons shall be exempt from taxes relating to residence permits.

3. The time during which officials of the adjoining State perform their duties in the territory of the transit State or reside therein shall not be included in the periods for which privileged treatment is applicable under conventions in force between the two States. The same shall apply to the members of the family who are granted a residence permit as a result of the presence of the head of the family in the transit State.

Article 15

1. Officials of the adjoining State who reside in the transit State shall be granted, under the conditions established by the laws and regulations of that State, in respect of themselves and the members of their family referred to in article 14, paragraph 2, exemption from all entry and exit duties on their furniture, personal effects, including vehicles, and normal household provisions, both at the time when they take up residence or establish a home in the transit State and when they return to the adjoining State. In order to benefit from the exemption, the aforesaid articles must be acquired on the open market in the adjoining State or in the State in which the official or the members of his family were previously resident. The regulations of the transit State concerning the use of the goods admitted free of charge shall be reserved.

2. The aforesaid officials, as well as the members of their family referred to in article 14, paragraph 2, shall be exempt, in so far as public law is concerned, from any personal taxes or taxes in kind in the transit State. With respect to nationality and military service, their place of residence shall be regarded as being the territory of the adjoining State. They shall not be subject, in the transit State, to any tax or duty from which nationals of the transit State resident in the same commune would be exempt.

3. Officials of the adjoining State who are not resident in the transit State shall be exempt in that State, in so far as public law is concerned, from any personal taxes or taxes in kind and direct levies on their official remuneration.

4. The double taxation conventions in force between the Contracting Parties shall apply also to officials of the adjoining State.

5. The wages of officials of the adjoining State shall not be subject to any currency restriction. They may freely transfer their savings to the adjoining State.

PART IV

OFFICES

Article 16

1. The competent authorities of the two States shall determine by mutual agreement:

- (a) the premises needed for the operation in the zone of the services of the adjoining State;

(b) the compartments and premises to be reserved for officials responsible for conducting inspections on moving vehicles.

2. The transit State shall make available to the services of the adjoining State the premises provided for in the preceding paragraph.

Any contribution made by the adjoining State to the cost of constructing the aforesaid premises or any compensation that may be due for their use shall be determined by mutual agreement between the competent authorities of the two States.

Article 17

The working hours and functions of the offices shall be determined by mutual agreement between the competent authorities of the two States.

Article 18

The authorities concerned shall communicate to each other a list of the officials assigned to the offices.

Article 19

The premises assigned for use as offices of the adjoining State shall be designated by an official description and a coat of arms.

Article 20

The officials of the adjoining State shall be entitled to maintain order within the premises assigned for their exclusive use and to expel therefrom any person causing a disturbance. For this purpose they may, if necessary call upon the assistance of officials of the transit State.

Article 21

The articles required for the operation of the offices or needed by officials of the adjoining State during the performance of their duties in the transit State shall be exempt from customs duties and any entry or exit taxes without deposit of security. Unless otherwise provided by mutual agreement between the competent authorities, import or export prohibitions or restrictions shall

not apply to the aforesaid articles. The same shall apply to service or private vehicles used by officials, either in the performance of their duties in the transit State, or for travel to and from their home.

Article 22

1. The transit State shall authorize the installation — free of charge, except for payment of any costs entailed by the installation and rental of apparatus — of the telephone and telegraph equipment (including teleprinter equipment) required for the operation of the offices of the adjoining State in the transit State, the connexion of such equipment to the corresponding equipment of the adjoining State, and the exchange of direct communications reserved exclusively for official matters with the aforesaid offices. Such communications shall be regarded as internal communications within the adjoining State.

2. For the same purpose, the Governments of the two States undertake to grant, so far as is possible, every facility for the use of other means of telecommunication.

3. Furthermore, the regulations of the two States relating to the construction and operation of telecommunication installations shall be reserved.

Article 23

Officials of the adjoining State may carry official letters and packets as well as funds sent from or addressed to the offices of that State without using the postal service. Such articles, which shall be free of all charges, must bear the official stamp of the service concerned.

PART V

PERSONS MAKING CUSTOMS DECLARATIONS

Article 24

1. Persons coming from the adjoining State may complete all the inspection operations at the offices of that State situated in the zone under the same conditions as in the adjoining State.

2. The provisions of the preceding paragraph shall apply in particular to persons who, in the adjoining State, perform the aforesaid operations on a professional basis; such persons shall be subject, in that respect, to the laws, regulations and administrative provisions of the adjoining State. The operations thus conducted and the services thus performed shall be regarded, for all taxation purposes, as having been conducted and performed exclusively in the adjoining State.

3. The general regulations of the transit State shall apply to the persons referred to in paragraphs 1 and 2 above in respect of the crossing of the frontier and of their presence in the aforesaid State. Facilities consistent with these provisions must be granted.

4. In the exercise of their activity at the customs offices of the adjoining State situated in the transit State, the persons referred to in paragraph 2 may employ personnel of either French or Luxembourg nationality without discrimination. The laws and regulations of the transit State governing the employment of foreign workers shall not be applicable in such cases.

PART VI

FINAL PROVISIONS

Article 25

The competent authorities of the two States shall determine, by mutual agreement, the administrative measures necessary for the application of this Convention.

Article 26

1. A joint Franco-Luxembourg commission shall be established as soon as possible after the entry into force of this Convention and shall be responsible for:

- (a) carrying out the arrangements provided for in article 2;
- (b) resolving, to the fullest extent possible, any difficulties that might arise from the application of this Convention;
- (c) formulating any amendments to this Convention that may be necessary.

2. The aforesaid commission shall be composed of six members to be appointed in equal numbers by each Contracting Party. It shall elect its chairman alternately from among the French and Luxembourg members. The chairman shall not have a casting vote. The members of the Commission may be assisted by experts.

Article 27

Any measures that one of the Contracting Parties might be called upon to take for reasons essential for the protection of its sovereignty or security shall be expressly reserved.

Article 28

The Convention of 29 April 1952 relating to customs and police inspections conducted in moving trains on Franco-Luxembourg tracks shall cease to have effect as and when the arrangements provided for in paragraph 2 of article 2 above enter into force.

Article 29

This Convention shall not prejudice the provisions of article 7 of the Convention signed by Luxembourg, Belgium and France on 17 April 1946¹ or those of the Additional Protocol relating to it signed on the same date¹.

Article 30

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

2. It shall enter into force on the date of the exchange of the instruments of ratification.

3. It shall terminate two years after it has been denounced by one of the Contracting Parties.

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

¹ United Nations, *Treaty Series*, vol. 27, p. 103.

DONE at Luxembourg, on 21 May 1964, in duplicate in the French language.

For the President of the French Republic:

Jean DE LAGARDE

[SEAL]

For Her Royal Highness the Grand Duchess
of Luxembourg:

Eugène SCHAUS, Pierre WERNER

[SEAL]
