

**No. 11355**

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**BELGIUM  
and  
DEMOCRATIC REPUBLIC OF THE CONGO**

**Convention concerning the social security of merchant seamen.  
Signed at Brussels on 3 May 1968**

*Authentic texts: French and Dutch.*

*Registered by Belgium on 4 October 1971.*

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**BELGIQUE  
et  
RÉPUBLIQUE DÉMOCRATIQUE DU CONGO**

**Convention concernant la sécurité sociale des marins de la  
marine marchande. Signé à Bruxelles le 3 mai 1968**

*Textes authentiques: français et néerlandais.*

*Enregistré par la Belgique le 4 octobre 1971.*

[TRANSLATION — TRADUCTION]

CONVENTION <sup>1</sup> BETWEEN THE KINGDOM OF BELGIUM  
AND THE DEMOCRATIC REPUBLIC OF THE CONGO  
CONCERNING THE SOCIAL SECURITY OF MERCHANT  
SEAMEN

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His Majesty the King of the Belgians, and

The President of the Democratic Republic of the Congo

Have resolved to conclude a Convention on social security for merchant seamen and, for this purpose, have appointed as their plenipotentiaries:

His Majesty the King of the Belgians:

His Excellency Mr. Pierre Harmel, Minister for Foreign Affairs;

The President of the Democratic Republic of the Congo:

His Excellency Lt.-Colonel Joseph Nzabi, Ambassador of the Democratic Republic of the Congo at Brussels,

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

TITLE I

GENERAL PROVISIONS

*Article 1*

For the purposes of the application of this Convention:

(a) The term “territory” means:

In relation to Belgium: the territory of Belgium;

In relation to the Congo: the territory of the Democratic Republic of the Congo;

(b) The term “national” means:

In relation to Belgium: persons possessing Belgian nationality;

In relation to the Congo: persons possessing Congolese nationality;

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<sup>1</sup> Came into force on 1 October 1971, the first day of the second month following the exchange of the instruments of ratification, which took place at Kinshasa on 22 August 1971, in accordance with article 18.

- (c) The term “legislation” means such laws, regulations and statutory provisions, whether existing or future, of the Contracting States, as are applicable to merchant seamen and relate to the benefits referred to in article 2;
- (d) The term “seaman” includes any national of one of the Contracting States employed on board or in the service of any merchant vessel registered in one of the Contracting States and flying the flag of the State;
- (e) The term “shipowner” means any individual who or body corporate which owns or charters a merchant vessel flying the flag of one of the Contracting States;
- (f) The term “competent authority” means, in relation to each of the Contracting States, the minister, ministers or appropriate authority responsible, in all or part of the territory of that State, for the application of the legislation referred to in article 2;
- (g) The term “institution” means, in relation to each of the Contracting States, the agency or authority responsible for the application of all or part of the legislation;
- (h) The term “competent institution” means:
- (i) In the case of social insurance, the institution designated by the competent authority of the Contracting State or the institution with which the seaman is insured at the time of the claim to benefit or with which he has title to benefit or would continue to have it if he were resident in the territory of the State in which the said institution is located;
  - (ii) In the case of a scheme relating to the shipowner’s obligations concerning benefits provided for by the legislation referred to in article 2, either the shipowner or the subrogated insurer, or, failing these, an agency or authority to be designated by the competent authority of the Contracting State concerned;
  - (iii) In the case of a scheme other than those mentioned in subparagraphs (i) and (ii) above or of a scheme for family allowances or annual holidays, the agency or authority responsible for the payment of benefits in accordance with this Convention.
- (i) The term “competent State” means the Contracting State in whose territory the competent institution is situated;
- (j) The term “residence” means habitual place of residence;
- (k) The term “members of the family” means the persons defined or recognized as such or designated as members of the household by the legislation under

which the benefits are paid to the seaman; however, if that legislation regards as members of the family or of the household only those persons living in the seaman's residence, that condition shall, in cases in which recourse may be had to this Convention, be deemed to be fulfilled when those persons are principally dependent on the seaman;

- (l) The term "insurance periods" means contribution periods or employment periods defined or recognized as insurance periods by the legislation under which they were completed, and also any period treated as such, in so far as they are recognized by the legislation as being equivalent to insurance periods;
- (m) The terms "benefits", "pensions" and "annuities" mean benefits, pensions and annuities, including all items chargeable to public funds, increments, reassessment allowances or supplementary allowances, and cash benefits which may be substituted for pensions or annuities.

## *Article 2*

This Convention shall apply:

1. In the Congo:  
To legislation, in so far as it concerns merchant seamen, relating to:
  - (a) Invalidity, old-age and death benefits;
  - (b) Industrial-accident and occupational-disease benefits;
  - (c) Family allowances;
  - (d) Such other social security benefits as may be established in favour of merchant seamen at a later date;
2. In Belgium:  
To legislation concerning the social security scheme for merchant seamen, relating to:
  - (a) Sickness, maternity and invalidity benefits;
  - (b) Industrial-accident benefits;
  - (c) Old-age and death benefits;To legislation, in so far as it concerns merchant seamen, relating to:
  - (a) Occupational-disease benefits;
  - (b) Family allowances;
  - (c) Annual holidays.

*Article 3*

When a seaman who is a national of one of the Contracting States to which the provisions of this Convention are applicable is subject to the legislation of the other Contracting State, he and the members of his family shall be subject to the obligations of and entitled to benefit from the latter State's legislation under the same conditions as a seaman who is a national of the said latter State.

*Article 4*

For the purposes of the acquisition of the right to benefits, where a seaman has been subject successively or alternately to the legislation of both Contracting States, the insurance periods completed under the legislation of each of the States shall be aggregated, provided that they do not overlap.

*Article 5*

Pensions or annuities and death benefits acquired under the legislation of one of the Contracting States shall not be reduced, modified, suspended, annulled or confiscated on the ground that the seaman is resident in the territory of the other State.

However, supplementary benefits in respect of industrial accidents or occupational diseases the granting of which is conditional upon need shall be granted only in the territory of the State responsible for their payment.

*Article 6*

1. Except with regard to insurance for invalidity, old age and death (pensions), the provisions of the Convention shall not confer or maintain any right to receive, under the legislation of the Contracting States, more than one benefit of the same nature or more than one benefit relating to the same insurance period.
2. The clauses for reduction or suspension provided for by the legislation of one of the Contracting States, in case of concurrence of a benefit with other social security benefits or with other income, or on the ground of carrying on an occupation, shall be applicable to seamen, even if the benefits were acquired under a scheme of the other Contracting State or if the income was obtained or the occupation was carried on in the territory of the other State.

## TITLE II

## PROVISIONS RELATING TO APPLICABLE LEGISLATION

*Article 7*

A seaman who is a national of one of the Contracting States and resident in the territory of one of the Contracting States while engaged under articles of agreement on board a vessel sailing under the flag of the other State shall be subject to the legislation of the State in whose territory he is resident.

A shipowner commissioning a vessel under the flag of one of the Contracting States who has engaged under articles of agreement a seaman who is a national of one of the States and resident in the territory of the State other than the one represented by the flag of the vessel shall be subject, in respect of matters concerning that seaman, to the legislation of the State in whose territory the seaman is resident.

## TITLE III

## MISCELLANEOUS PROVISIONS

*Article 8*

The competent authorities of the two Contracting States shall make such administrative arrangements as may be required for the application of this Convention.

*Article 9*

1. The supreme administrative authorities of the Contracting States shall decide the detailed measures for the implementation of this Convention, in so far as such measures require agreement between them.

The same administrative authorities shall communicate to each other any changes in the legislation in force in the territory of the Contracting State to which they belong and any new legislation adopted by that State, within three months from the publication of the changes or the new legislation concerned.

2. The competent authorities or services of each of the Contracting States shall communicate to each other any other provisions taken with a view to the implementation of this Convention within their respective States.

*Article 10*

1. The authorities and the institutions of the two Contracting States shall furnish assistance to one another in the same degree as if assistance were being furnished in connexion with the application of their own legislation.

The arrangements referred to in article 8 of this Convention shall determine which authorities and institutions of each of the two Contracting States shall be empowered to correspond direct with each other for this purpose and to centralize claims by insured persons and the payment of benefits.

2. The said authorities and institutions may, as an accessory measure, have recourse for the same purpose to the diplomatic and consular authorities of the other State.

3. The diplomatic and consular authorities of either Contracting State may apply direct to the administrative authorities and the institutions of the other State with a view to obtaining any information required for the protection of the interests of their nationals.

*Article 11*

1. Any exemption from registration or court fees, stamp duties and consular fees that is provided for by the legislation of one of the Contracting States in respect of documents required to be produced to the social security administrations, administrative institutions or administrative courts of that State shall be extended to similar documents required to be produced, for the purposes of this Convention, to the social security administrations, administrative institutions or administrative courts of the other State.

2. Legalization by diplomatic and consular authorities shall be waived in respect of all certificates, documents and papers required to be produced for the purposes of this Convention.

*Article 12*

All communications relating to the application of this Convention sent by persons benefitting under this Convention to the institutions, administrative authorities and administrative courts of one of the Contracting States concerned with social security matters must be written in one of the official languages of either State.

*Article 13*

Claims and appeals which must be presented within a prescribed period to an authority, an institution or an administrative court of one of the Contracting States competent to receive claims or appeals in social security matters shall be deemed admissible if they are presented within the same period to a corresponding authority, institution or administrative court of the other State. In such cases the latter authority, institution or administrative court shall without delay transmit the claims or appeals to the competent institution.

*Article 14*

1. Any dispute arising between the two Contracting States concerning the interpretation or the application of this Convention shall be resolved by the competent authorities of the two States.
2. Where it is impossible to reach a solution by such means, the dispute shall be settled by arbitration in accordance with an arrangement to be agreed upon between the Governments.

The arbitral body shall resolve the dispute in accordance with the fundamental principles and the spirit of this Convention.

*Article 15*

1. Institutions which are liable for the payment of benefits under this Convention shall be held to discharge their liability validly by payment in the currency of their own country.
2. The Contracting States undertake to adopt measures, in accordance with the provisions of this Convention, for the transfer of the sums payable.

*Article 16*

Where a seaman who is in receipt of benefits under the legislation of one of the Contracting States in respect of an injury sustained in the territory of the other State or on board a vessel flying the flag of that State is entitled in the territory of that second State to claim damages for such injury from a third party, the possible rights vis-à-vis the third party of the institution liable for the benefits shall be settled as follows:

- (a) Where the institution liable for the benefits is subrogated, in accordance with the applicable legislation, to the rights which the ben-



fiary has vis-à-vis the third party, the State in which the third party is resident shall recognize such subrogation;

- (b) Where the institution liable for the benefits has a direct right against the third party resident in one State, the other State shall recognize that right.

The application of these provisions shall be governed by an agreement between the competent authorities of the Contracting States.

#### *Article 17*

The following shall be deemed to be the supreme administrative authorities in each of the Contracting States for the purposes of this Convention:

In Belgium: The Minister of Social Welfare;

In the Congo: The Minister of Labour and Social Welfare.

#### TITLE IV

#### FINAL PROVISIONS

#### *Article 18*

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Kinshasa as soon as possible.
2. It shall enter into force on the first day of the second month following the exchange of the instruments of ratification.

#### *Article 19*

1. Where the payment of benefits has been suspended under the provisions in force in one of the Contracting States on the ground that the persons concerned were resident outside the national territory, such benefits shall be paid as from the first day of the month following the entry into force of this Convention.

Benefits which for the same reasons could not be granted to the persons concerned shall be awarded and paid as from the same date.

The provisions of this paragraph may be applied only if the claims are submitted within two years from the date of entry into force of this Convention.

2. The provisions of the preceding paragraph shall also be applied, at the request of the persons concerned, in cases where the contingencies covered by the insurance arose before the entry into force of this Convention and did not give rise to the payment of benefits.

3. The rights of Belgian or Congolese nationals to whom pensions or old-age insurance benefits have been paid before the entry into force of this Convention may be reviewed at the request of the persons concerned.

As a result of such a review, the beneficiaries shall acquire, as from the first day following the entry into force of this Convention, the same rights as they would have acquired if the Convention had been in force when the pension or benefit was awarded, provided that the request is submitted with two years from the entry into force of the said Convention.

#### *Article 20*

1. This Convention is concluded for a term of one year. It shall be extended automatically from year to year unless denounced three months before the expiry of the current term.

2. In the event of denunciation the provisions of this Convention shall continue to apply to rights acquired, notwithstanding any restrictive provisions made in the schemes concerned for cases where an insured person resides abroad.

3. Any rights that are in process of acquisition in respect of insurance periods completed before the date on which this Convention ceases to have effect shall continue to be governed by the provisions of this Convention, subject to conditions to be determined by agreement.

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

DONE at Brussels on 3 May 1968, in duplicate in the French and Dutch languages, both texts being equally authentic.

For the Kingdom  
of Belgium:

P. HARMEL

For the Democratic Republic  
of the Congo:

J. NZABI