

No. 12188

**NETHERLANDS
and
BELGIUM**

**Convention concerning the improvement of the navigable
waterway in the western Scheldt near Walsoorden
(with map). Signed at The Hague on 13 May 1970**

Authentic texts: Dutch and French.

Registered by the Netherlands on 21 December 1972.

**PAYS-BAS
et
BELGIQUE**

**Convention concernant l'amélioration de la voie navigable
dans l'Escaut occidental près de Walsoorden (avec
plan). Signée à La Haye le 13 mai 1970**

Textes authentiques: néerlandais et français.

Enregistrée par les Pays-Bas le 21 décembre 1972.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE KINGDOM OF BELGIUM CONCERNING THE IMPROVEMENT OF THE NAVIGABLE WATERWAY IN THE WESTERN SCHELDT NEAR WALSOORDEN

The Government of the Kingdom of the Netherlands and
The Government of the Kingdom of Belgium,
Having decided to improve the navigable waterway in the Western Scheldt near Walsoorden,

Have agreed as follows:

TITLE I. DEFINITIONS

Article 1. In this Convention:

- (a) “Netherlands Minister” means the Netherlands Minister responsible for ways and communications;
- (b) “Belgian Minister” means the Belgian Minister whose responsibilities include the Civil Engineering Administration (Waterways Administration);
- (c) “Officials” means the officials appointed by the Ministers referred to above to implement the provisions of article 5 of this Convention.

TITLE II. WORKS TO BE EXECUTED

Article 2. In order to improve the navigable waterway in the Western Scheldt near Walsoorden, the following works shall be carried out:

- (a) demolition of the old jetty (het Oude Hoofd) at Walsoorden to a depth of 15 m — N.A.L. (Normal Amsterdam Level) over a distance of 165 m measured at the level of 1.20 m — N.A.L. along the axis of the jetty;
- (b) completion of the new jetty head, with a gradient of 1:4 below the level of 1.20 m — N.A.L. and with a gradient of 1:9 above the level of 1 m — N.A.L., all measurements being made along the axis of the jetty;
- (c) completion of the banks adjacent to each side of the jetty, with a gradient of 1:4;
- (d) protection of the banks on each side of the axis of the jetty by means of fascine and rock-fill mattresses, over a distance of approximately 250 m to the north-west and over a distance of approximately 510 m to the south-east;

¹ Came into force on 14 July 1972, i.e. the day following the exchange of the instruments of ratification, which took place at Brussels on 13 July 1972, in accordance with article 22(2).

(e) all temporary and permanent works which may prove necessary or desirable in connexion with, or as a result of, the execution of the works referred to in this article, for the effective preservation of the said works.

Article 3. The works referred to in article 2 shall be undertaken and completed as rapidly as possible. They shall be carried out in accordance with the data given in the plan¹ forming part of this Convention.

TITLE III. PLANNING AND EXECUTION OF THE WORKS

Article 4. The Netherlands Minister shall be responsible for the preparation and execution of the works referred to in article 2, including the preparation of plans and of invitations for tenders, obtaining the authorization required under the by-law of 18 July 1922 relating to polders and *waterschappen* in Zeeland, the disposal of spoil and the awarding of contracts.

Article 5. The Netherlands Minister shall instruct an official to manage and supervise the preparation and execution of the works. This official shall regularly consult the official appointed for the same purpose by the Belgian Minister on all matters of mutual interest that may arise in connexion with the preparation and execution of the works. The said officials shall be given the necessary powers to ensure the satisfactory progress of the works.

Article 6. The specifications and contracts for the execution of the works shall be subject to prior approval by the Belgian Minister. These documents may depart from the data given in article 2 and from those shown on the plan forming part of this Convention. The Netherlands Minister shall transmit to the Belgian Minister copies of the contracts concluded.

Article 7. 1. Contracts for the supply of materials and the execution of works shall be awarded after a public invitation to tender conducted in accordance with the regulations in force in the Netherlands. The invitations shall be announced in each country in accordance with the local regulations in force.

2. In cases in which a public invitation to tender is impossible or undesirable, the Netherlands Minister may decide, subject to compliance with the applicable regulations, to follow some other procedure in awarding contracts for the supply of materials and execution of works.

3. A decision such as that described in the preceding paragraph shall be subject to the consent of the Belgian Minister, except in the case of supplies or works the estimated cost of which does not exceed 75,000 guilders. The selection of suppliers or contractors to be approached shall also be subject to such consent.

Article 8. 1. The Netherlands official shall submit for the approval of the Belgian official any modifications of, departures from, or additions to the documents approved in accordance with article 6 which may appear necessary or desirable in the course of execution of the works.

2. The approval of both Ministers shall be required where the modifications, departures or additions referred to in paragraph 1 entail an increase of more than 10 per cent in the amount of the contract.

¹ See insert in a pocket at the end of this volume.

Article 9. If, in the course of the execution of the works, unforeseen or emergency works or measures become necessary, the said works may be executed and the said measures may be implemented without the approval referred to in article 8 having been obtained. In such cases, the Netherlands official shall so notify the Belgian official as soon as possible.

Article 10. The works executed by the contractors shall be approved only after consultation between the officials.

TITLE IV. MAINTENANCE AND RENOVATION OF WORKS

Article 11. The Netherlands shall be responsible for the maintenance and renovation of the works referred to in article 2.

TITLE V. COSTS AND PAYMENTS

Article 12. 1. The costs of preparing and executing the works referred to in article 2 shall be borne by Belgium.

2. The costs referred to in paragraph 1 shall include:

- (a) compensation which the Netherlands shall be obliged to pay to third parties for damages resulting from the execution of the works referred to in article 2;
- (b) the cost of expert opinions and any other co-operation furnished by persons not under the jurisdiction of the Netherlands Rijkswaterstaat (Department of Ways and Communications).

Article 13. If, as a direct and obvious result of the execution of the works referred to in article 2, it becomes necessary to take measures—in addition to the maintenance and renovation works referred to in article 11—for the preservation of the dike between marker 73 of the Wilhelmspolder and the ferry harbour at Perkpolder, Belgium shall, as an exceptional measure, pay to the Netherlands the costs incurred as a result of such measures, if the Netherlands' Government so requests. This obligation on the part of the Belgian Government shall lapse 10 years after the final approval of the works referred to in article 2.

Article 14. The costs of maintaining and renovating the works referred to in article 2 shall be borne by the Netherlands.

Article 15. Belgium shall have no claim to ownership of the works executed in accordance with the provisions of this Convention.

Article 16. 1. In exceptional circumstances, the costs referred to in article 12 shall be paid in advance to the Netherlands by Belgium.

2. In implementation of the provisions of paragraph 1 of this article, the Belgian Government shall deposit an amount of 4,000,000 guilders with the Nederlandse Bank N.V. in Amsterdam to the account of “'s Rijks Schatkist” in The Hague (Ministry of Transport, Ways and Communications, “Walsoorden” account).

3. If, in the course of the execution of the works, it becomes apparent that the costs will exceed the amount referred to in paragraph 2 of this article, the Belgian Government shall deposit the amount of the difference in guilders in the account referred to in the said paragraph within two months of the receipt of a request to that effect, with supporting evidence, from the Netherlands

Government. If, upon the expiration of this time-limit, the funds required to meet current expenditures have not been made available, Belgium shall pay simple interest on the amount outstanding at the rate of 6 per cent per annum for the period of arrears.

Article 17. 1. The Netherlands Government shall pay the costs referred to in article 12 on the funds deposited in the account referred to in article 16, paragraph 2.

2. Within two weeks from the end of each month, the Netherlands Minister shall submit to the Belgian Minister a statement of the payments made in the course of the month, together with the relevant vouchers.

Article 18. If the Belgian Minister raises any objection concerning a payment or part of a payment made by the Netherlands Government, he shall so inform the Netherlands Minister within 6 weeks of the receipt of the statement relating to the said payment. In such an event, the officials, and, if necessary, the Ministers shall consult together with a view to reaching agreement on the matter as rapidly as possible.

Article 19. The Netherlands shall pay to Belgium simple interest at the rate of 4 per cent per annum on the amount deposited in the account referred to in article 16, paragraph 2, in so far as such amounts have not yet been allocated in accordance with the provisions of article 17.

Article 20. As soon as possible after the completion of the works referred to in article 2, the two Governments shall proceed with a final accounting of the costs of the works, of the funds paid by Belgium into the account referred to in article 16, paragraph 2, and any interest paid.

TITLE VI. DISPUTES

Article 21. 1. The Arbitration Board referred to in article 42 of the Treaty between the Kingdom of the Netherlands and the Kingdom of Belgium concerning the connexion between the Scheldt and the Rhine, signed at The Hague on 13 May 1963¹, shall be competent, to the exclusion of any other authority, to rule in all disputes that may arise between the two Governments with regard to the interpretation or application of the provisions of this Convention.

2. The provisions of annex III of the Treaty of 13 May 1963 shall be applicable to the arbitration of the disputes referred to in paragraph 1.

3. The Arbitration Board shall base its decisions on the provisions of this Convention and the general principles of international public law.

TITLE VII. FINAL PROVISIONS

Article 22. 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 day following the exchange of the instruments of ratification.

¹ United Nations, *Treaty Series*, vol. 540, p. 3.

IN WITNESS WHEREOF, the undersigned, duly authorised for the purpose, have signed this Convention.

DONE at The Hague, on 13 May 1970, in duplicate in the Dutch and French languages, both texts being equally authentic.

For the Government of the Kingdom of the Netherlands:
J. LUNS

For the Government of the Kingdom of Belgium:
W. VAN CAUWENBERG
