

TREATY

REVISING THE

TREATY ESTABLISHING

THE BENELUX ECONOMIC UNION

SIGNED ON 3 FEBRUARY 1958

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Preamble

The Kingdom of Belgium,

Represented by:

the Federal Government,
the Flemish Government,
the Government of the French Community,
the Walloon Government,
the Government of the Brussels-Capital Region,
the Government of the German-speaking Community

The Grand Duchy of Luxembourg,

The Kingdom of the Netherlands,

CONSIDERING that they concluded on 3 February 1958 the Treaty establishing the Benelux Economic Union expanding on the Customs Agreement between the governments of the Netherlands, Belgium and Luxembourg signed in London on 5 September 1944;

CONSIDERING that the Treaty of 3 February 1958 was amended on 16 March 1971, 26 January 1976 and 16 February 1990;

CONSIDERING that the Benelux Committee of Ministers, on 20 November 1995, redefined the missions of the Benelux Economic Union, basing itself on the report of a Committee of Wise Persons;

CONSIDERING also that article 99, first paragraph, of the Treaty of 3 February 1958 provides that said treaty was concluded for a period of fifty years, this period ending on 31 October 2010;

REFERRING to the Convention of 5 November 1955 establishing a Benelux Interparliamentary Consultative Council and the Additional Protocol to said agreement signed on 3 February 1958, as well as to the Treaty of 31 March 1965 on the establishment and status of a Benelux Court of Justice and to the protocols amending and implementing this Treaty;

NOTING that, within the framework of the Benelux Economic Union, they have been able to, on the basis of the Treaty of 3 February 1958 and in practice, dynamically realise their cooperation in a rapidly-developing international context, and notably within the context of the increasing integration within the European Union;

NOTING that, basing themselves on their cooperation, they have been able to successfully implement initiatives which had a favourable impact on international developments, particularly within the European Union;

NOTING that, in conformity with article 306 of the Treaty establishing the European Community and article 202 of the Treaty establishing the European Atomic Energy Community, the provisions of these treaties shall not preclude the existence or creation of a regional union between Belgium, Luxembourg and the Netherlands, in so far as the objectives of this union are not attained by application of said treaties;

FIRMLY RESOLVED to deepen and strengthen their cooperation in the border regions in many areas;

NOTING that the Kingdom of Belgium has adopted a federal state structure;

DESIRING to continue and extend their cooperation, and for this purpose to create a contractual basis which can be proactively realised;

DESIRING, after the cooperation within the Customs Union and in extension of the Benelux Economic Union, to continue their cooperation within the broader context of the Benelux Union,

HAVE AGREED to revise as follows the Treaty establishing the Benelux Economic Union of 3 February 1958:

PART 1 – Principles and objectives

ARTICLE 1

The High Contracting Parties establish a Benelux Union in order to defend their common interests and to promote the well-being of their populations.

Article 2

1. The purpose of the Benelux Union is to deepen and expand the cooperation between the High Contracting Parties so that it can continue its role as precursor within the European Union and strengthen and improve cross-border cooperation at every level.

2. The Benelux Union seeks in particular:

- a) the maintenance and development of an economic union including the free movement of persons, goods, capital and services, and bearing on a concerted economic, financial and social policy, including the pursuit of a common policy in economic relations with non-Member countries;
- b) sustainable development reconciling balanced economic growth, social protection and protection of the environment;
- c) cooperation in the areas of justice and internal affairs.

Article 3

1. In order to achieve the objectives set forth in article 2, the Benelux Union shall periodically establish a multiannual common work programme defining the priorities of the cooperation.

2. The common work programme shall concern inter alia:

- a) the completion of the Benelux internal market and the implementation of the Benelux Economic Union, including the pursuit of harmonisation of the social policy, of the policy concerning energy and climate, as well as cooperation with regard to transport and communication;
- b) cooperation with respect to the environment, nature, agriculture and nature areas;
- c) the policy concerning visas and immigration, police cooperation, cooperation with regard to crisis management and disaster prevention and response as well as with regard to combating terrorism and fraud, notably tax fraud;
- d) cooperation in other areas, if this proves necessary in order to achieve the objectives of article 2.

Article 4

The rights and obligations deriving from Parts 1 and 3 of the Treaty of 1958 shall apply without restriction, unless provided otherwise in the present Treaty.

PART 2 – Institutions

Article 5

The institutions of the Benelux Union are:

- a) the Benelux Committee of Ministers;
- b) the Benelux Council;
- c) the Benelux Interparliamentary Consultative Council;
- d) the Benelux Court of Justice;
- e) the Benelux General Secretariat.

CHAPTER 1

The Benelux Committee of Ministers

Article 6

1. The Committee of Ministers shall see to the application of the present Treaty and shall ensure the realisation of the objectives established by it. It shall determine the orientations and the priorities of the cooperation in the Benelux Union.

2. To this end, the Committee of Ministers shall have as its mission:

- a) to determine the modes of implementation of the provisions of the present Treaty under the conditions provided therein. These decisions of the Committee shall commit the High Contracting Parties;
- b) to adopt the common work programme referred to in article 3 on the basis of a coordinated proposal of the General Secretariat;
- c) to adopt the budget of the Benelux Union in conformity with the procedures established in article 22;
- d) to adopt the annual plan of the Benelux Union;
- e) to adopt the annual report of the Benelux Union ;

- f) to establish agreements which shall be submitted to the High Contracting Parties with a view to their implementation in conformity with the constitutional rules of each of the High Contracting Parties;
- g) to formulate recommendations relating to the functioning of the Benelux Union. These recommendations shall not bind the High Contracting Parties;
- h) to give directives to the Council and to the General Secretariat.

Article 7

The Committee of Ministers shall count at least one representative on the ministerial level from each High Contracting Party. The composition of the Committee of Ministers may vary as a function of the agenda and of the division of competences within each High Contracting Party.

Article 8

Decisions of the Committee shall be taken unanimously. Each of the High Contracting Parties shall have one vote. The abstention of one High Contracting Party shall not prevent a decision from being taken.

Article 9

1. The Committee of Ministers shall meet at least once per presidency. In an emergency, the Committee shall meet at the request of one of the High Contracting Parties.

2. The meetings of the Committee of Ministers shall be chaired in rotation by a Belgian, Luxembourg and Dutch member for the term of one calendar year, whatever the place of the meeting.

Article 10

The Committee of Ministers may set up ministerial working groups to which it may delegate some of its powers. These groups shall be composed of members of the Committee or other members of the Governments in each of the High Contracting Parties.

Article 11

The Committee of Ministers shall adopt its own internal rules.

CHAPTER 2

The Benelux Council

Article 12

The mission of the Benelux Council shall be:

- a) to prepare the meetings and the deliberations of the Committee of Ministers and of the ministerial working groups;
- b) to set up and dissolve working groups of the administration and committees of independent experts. The Council shall give to these working groups and committees the directives necessary for their activities. The Council shall transmit, if necessary, to the Committee of Ministers the proposals of the working groups and of the committees, accompanied, if need be, by its opinion;
- c) to ensure, in that which concerns it, the execution of the deliberations of the Committee of Ministers;
- d) to make to the Committee of Ministers the proposals that it deems useful for the functioning of the Benelux Union.

Article 13

1. The Council shall be formed by at least one representative from each High Contracting Party. The composition of the Council may vary as a function of the agenda and the division of competences within each High Contracting Party.

2. The Chairmanship of the Council shall be assumed by the High Contracting Party which holds the Chairmanship of the Committee of Ministers.

Article 14

The Council shall adopt its own internal rules.

CHAPTER 3

The Benelux Interparliamentary Consultative Council

Article 15

The Convention of 5 November 1955 establishing a Benelux Interparliamentary Consultative Council regulates the composition, the competence and the working method of the Interparliamentary Consultative Council.

Article 16

For questions which directly affect the functioning of the Benelux Union, the Benelux Interparliamentary Consultative Council shall maintain relations with the Committee of Ministers.

CHAPTER 4

The Benelux Court of Justice

Article 17

The Treaty of 31 March 1965 on the establishment and status of a Benelux Court of Justice regulates the composition, the competence and the functioning of the Benelux Court of Justice.

CHAPTER 5

The Benelux General Secretariat

Article 18

The headquarters of the Benelux General Secretariat is established in Brussels.

Article 19

1. The Board of Secretaries-General shall be composed of one Secretary-General and two Deputy Secretaries-General. The members of the Board shall be nationals of the High Contracting Parties. The three nationalities shall be represented within the Board. The Board shall be responsible for managing the General Secretariat.

2. The Board of Secretaries-General shall divide amongst its members the tasks, the final responsibility for the functioning of the General Secretariat being assumed by the Secretary-General.

3. The Secretary-General and the Deputy Secretaries-General shall be appointed for a mandate of five years, renewable once.

4. The Committee of Ministers shall appoint and dismiss the Secretary-General and the Deputy Secretaries-General. It shall establish, after having solicited the opinion of the Council, their salary scales, pension and allowances, as well as all of the conditions under which they must perform their functions.

Article 20

1. The Secretary-General shall appoint and dismiss the members of the personnel of the General Secretariat, in conformity with the status provided for in paragraph 2 of this article.

2. The status of the personnel, the organic framework, the salary scales, pensions and indemnities, as well as all conditions in which the personnel members must perform their functions shall be established by the Committee of Ministers at the proposal of the Secretary-General and after having solicited the opinion of the Council.

Article 21

1. The mission of the General Secretariat shall be:

- a) to make a coordinated proposal for the common work programme;
- b) to be responsible for the secretariat of the Committee of Ministers, of the ministerial working groups, of the Council, of the working groups of the administration and of the committees of independent experts;
- c) to coordinate in the administrative area the activities of the Committee of Ministers, of the ministerial working groups, of the Council, of the working groups of the administration and of the committees of independent experts;
- d) to establish the annual plan of the Benelux Union;
- e) to make all suggestions which are useful for the execution of the present Treaty, taking into account the competences of the other institutions of the Benelux Union.

2. The Committee of Ministers may assign other tasks to the General Secretariat.

Article 22

1. The Secretary-General shall prepare the annual draft budget of the institutions of the Benelux Union and submit it to the Committee of Ministers, with the opinion of the Council.

2. By agreement, the High Contracting Parties shall regulate:

- a) the control of the execution of the budgets;
- b) the adoption of the accounts;
- c) the granting of the necessary advances;
- d) the distribution between the High Contracting Parties of the surplus of the expenditures over the receipts.

3. The provisions of this article shall not apply to either the Benelux Interparliamentary Consultative Council or the Benelux Court of Justice.

Article 23

The Secretary-General shall assure the publication in the Benelux Bulletin of the decisions, the common work programme, the annual plan, the annual report and the recommendations referred to in article 6, paragraph 2, sub (a), (b), (d), (e) and (g).

PART 3 – External relations

Article 24

The Committee of Ministers shall determine the principles of the cooperation of the Benelux Union with other States and federated entities, and in particular with Member States of the European Union and of the regional cooperation structures of these States, if doing so favours the achievement of the objectives of the present Treaty and in particular the fulfilment of the role of precursor within the broader framework of the European Union.

Article 25

The Committee of Ministers may, within the framework of establishing or implementing the common work programme, decide to set up a cooperation between the Benelux Union, on the one hand, and the States, federated entities and administrative entities bordering the territory of the High Contracting Parties, on the other.

Article 26

When the application of articles 24 or 25 entails the conclusion of a treaty by the High Contracting Parties with a third State or a federated entity, article 6, second paragraph, sub (f), shall apply.

Article 27

Within the framework of the objectives of the present Treaty and in consultation with the Council, the General Secretariat of the Benelux Union shall maintain appropriate relations with the States, federated entities and other administrative entities, as well as with the international organisations and other international institutions.

PART 4 - International legal personality, privileges and immunities

Article 28

The Benelux Union shall enjoy international legal personality for the purposes of granting privileges and immunities.

Article 29

1. The privileges and immunities necessary for the exercise of the mission and for the achievement of the objectives of the Benelux Union shall be established by the protocol annexed to the present Treaty.

2. The Secretary-General shall be authorised to conclude supplementary agreements on behalf of the Benelux Union with the State where the Benelux Union has its headquarters or with a State where is established an entity which was set up by the Benelux Union and which is recognised as such by this State. Such supplementary agreements shall seek the execution of the provisions of the Protocol referred to in the first paragraph and other arrangements with a view to ensuring the proper functioning of the Benelux Union and the safeguarding of its interests in the States concerned.

3. The Secretary-General shall submit such supplementary agreements, prior to their signing and accompanied by an opinion of the Council, to the Committee of Ministers.

PART 5 - Benelux Joint Services

Article 30

The Committee of Ministers may set up such Joint Services as are useful for the functioning of the Benelux Union; it shall determine the attributions, the conditions of organisation and the functioning of such Services.

PART 6 - The Benelux Organisation for Intellectual Property

Article 31

The Benelux Organisation for Intellectual Property is governed by the Benelux Convention on Intellectual Property (trade marks and designs or models), signed in The Hague on 25 February 2005.

PART 7 – Transitional provisions

Article 32

1. The Committee of Ministers shall decide, on the basis of an inventory drawn up by the Benelux General Secretariat and after hearing the opinion of the Council, what decisions, recommendations and directives referred to in article 6, second paragraph, sub (a), (g) and (h), are null and void because they are no longer applied.

2. The committees and special committees established in and on the basis of the Treaty of 1958 shall be authorised to continue their activities. The Council shall decide as quickly as possible, on the basis of an inventory of the Benelux General Secretariat, how article 12, sub (b), applies to these committees and special committees.

Article 33

1. To the extent that they have not already been provided for by a supplementary agreement between the Benelux Union and the State where the Benelux Union has its headquarters, referred to in article 29, second paragraph, the Secretary-General and the Deputy Secretaries-General shall enjoy in this State the privileges and immunities granted respectively to a head of diplomatic mission accredited in this State and to the diplomatic staff by virtue of the Vienna Convention of 18 April 1961 on diplomatic relations.

2. If need be, the immunity from jurisdiction may be lifted by the Committee of Ministers.

Article 34

Upon the entry into force of the present Treaty, article 19, third paragraph, shall apply without restriction to the Secretary-General in office at the time of signing.

PART 8 – Final provisions

Article 35

The title of the Treaty establishing the Benelux Economic Union shall be replaced by “Treaty establishing the Benelux Union”

Article 36

1. The application of the present Treaty shall be limited to the territory of Belgium, Luxembourg and the Netherlands.

2. The Kingdom of the Netherlands reserves the right to insert in the treaties referred to in articles 6, second paragraph, sub (f), and 26 clauses concerning the other constituent parts of the Kingdom of the Netherlands.

Article 37

The provisions of the present Treaty shall not preclude either the existence or the possible development of the Economic Union existing between the Kingdom of Belgium and the Grand Duchy of Luxembourg in so far as the objectives of this Union are not attained by application of the present Treaty.

Article 38

French and Dutch shall be the official languages of the institutions of the Benelux Union.

Article 39

1. The present Treaty is concluded for an unlimited period.
2. Each High Contracting Party may denounce the Treaty with a period of three years commencing on the day of receipt at the General Secretariat of the notice of denunciation.
3. The Secretary-General shall inform the other High Contracting Parties of this denunciation, specifying the date of its entry into effect.
4. The High Contracting Parties shall consult on expediting current affairs.
5. The second paragraph shall not apply for a period of ten years counting from the date of entry into force of the Treaty.

Article 40

1. The present Treaty shall be ratified and the instruments of ratification shall be deposited with the Secretary-General who shall inform the other High Contracting Parties of receipt of the instruments of ratification.
2. The present Treaty shall enter into force on the first day of the second month following the deposit of the third instrument of ratification. The Secretary-General shall communicate to the High Contracting Parties the date of the entry into force of the present Treaty.

IN WITNESS WHEREOF the Plenipotentiaries have signed and sealed the present Treaty.

DONE at The Hague, on in triplicate, in the French and Dutch languages, each of which shall be equally authoritative.

For the Kingdom of Belgium

Represented by:

the Federal Government,

the Flemish Government,

the Government of the French Community,

the Walloon Government,

the Government of the Brussels-Capital Region,

the Government of the German-speaking Community

For the Grand Duchy of Luxembourg

For the Kingdom of the Netherlands