

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1996 Nr. 259

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Republiek
Letland inzake scheepvaart;
Riga, 4 september 1996*

B. TEKST

**Agreement on Maritime Transport between the Kingdom of the
Netherlands and the Republic of Latvia**

The Kingdom of the Netherlands and the Republic of Latvia, hereinafter referred to as the Contracting Parties,

For the purpose of further developing friendly relations between the two countries and of strengthening co-operation in the field of maritime transport,

In accordance with the principles of equality and mutual benefit,

Have agreed as follows:

Article 1

Definitions

For the purpose of the present Agreement:

1. The "Competent Maritime Authority" in the Kingdom of the Netherlands is the Directorate-General Shipping and Maritime Affairs of the Ministry of Transport, Public Works and Water Management and in the Republic of Latvia the Ministry of Transport or in either case any person or body authorised to perform any functions at present exercised by the said authorities.

2. The term "vessel of a Contracting Party" means any seagoing vessel used in commercial service, with the exception of fishing vessels and

factory ships, which is registered in the territory and flies the flag of a Contracting Party in compliance with its national laws and regulations.

3. The term “crew member” means the ship’s master and any person actually employed on board a vessel with regard to the working or service of the vessel, who is included in the crew list and who is a holder of a seaman’s identity document as mentioned in Article 11 of this Agreement.

4. The term “enterprise of a Contracting Party” has the same meaning as the term “enterprise of a Contracting State” in article 8 of the Convention between the Kingdom of the Netherlands and the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital (signed 14 March 1994) and which is defined in articles 3 and 4 of this Convention.

A “shipping company of the Contracting Party” must be understood to be an “enterprise of a Contracting Party”.

Article 2

Scope

The provisions of this Agreement shall apply to the international maritime transport between the Contracting Parties, to or from third countries and to the carriage of goods and passengers within the territories of either Contracting Party, effectuated by a vessel of a Contracting Party.

Article 3

General

The Contracting Parties shall in their mutual relations contribute in every respect to the freedom of merchant shipping and shall refrain from any action which might harm the development of international shipping.

Article 4

1. Each Contracting Party shall apply this Agreement in accordance with its international obligations. The application of this Agreement shall be without prejudice to the application by the Kingdom of the Netherlands, as Member State of the European Union, of the law of the European Union, as amended or supplemented.

2. Each Contracting Party, without prejudice to the obligations of the Kingdom of the Netherlands as a Party to the United Nations Convention on a Code of Conduct for Liner Conferences, shall abstain from any discriminatory measures with respect to the vessels of the other Contracting Party in relation to liner, tramp and bulk trade between the two countries and shall accord to the vessels of the other Contracting Party

treatment no less favourable than that accorded to the vessels of third countries in relation to liner, tramp and bulk trade between the two countries and between either country and third countries.

Article 5

Development of maritime transport and transfer of know-how

The Contracting Parties agree,

a. to promote the development of maritime transport in a spirit of consideration of their mutual interests and to remove any difficulties in this field;

b. to facilitate the transfer of technology and know-how as well as the establishment of joint ventures in the field of shipping;

c. that the shipping companies of a Contracting Party have the freedom to offer an efficient total transport system (multimodal transport services) and engage in joint venture investments;

d. in respect of activities undertaken by shipping companies for the provision of international maritime transport services, including intermodal activities involving a sea leg, each Contracting Party shall permit to the companies of the other Party their commercial presence in its territory in the form of subsidiaries or branches, under conditions of establishment and operation no less favourable than those accorded to its own companies or to subsidiaries or branches of companies of any third country, whichever are the better.

Article 6

National treatment

1. Each Contracting Party shall grant national treatment in its ports open to foreign commerce and navigation to vessels of the other Contracting Party. This applies also to vessels operated by shipping companies of the other Contracting Party flying the flag of a third country, unless the Competent Maritime Authority of that Contracting Party objects.

2. The provisions of paragraph 1 of this Article shall apply to custom formalities, the levying of charges and port dues, freedom of access to and the use of the ports, as well as to all facilities afforded to shipping and commercial operations in respect of vessels, crew members, passengers and cargoes. In particular this refers to the allocation of berths at piers, loading and unloading facilities and port services, including pilotage and bunker facilities.

Article 7

Facilitation

The Contracting Parties shall adopt, within the limits of their respective national laws and regulations, all appropriate measures to facilitate

and to expedite maritime traffic, to prevent unnecessary delays to vessels and expedite and simplify as much as possible the carrying out of customs and other formalities required in ports.

Article 8

Payment of taxes

1. Income and profits from the operation in international traffic of owned or chartered vessels of an enterprise of a Contracting Party shall be taxable only in that Party.

2. The provisions of paragraph 1 of this Article shall also apply to income and profits obtained by chartering out vessels fully equipped, manned and supplied, irrespective of the nationality of the charterer.

3. The provisions of paragraph 1 and 2 shall also apply to income and profits from the participation in a pool, a joint business or an international operating agency.

4. Gains from the alienation of vessels of an enterprise of a Contracting Party operated in international traffic or of movable property be taxable only in that Party.

5. Capital represented by vessels of an enterprise of a Contracting Party operated in international traffic and by movable property pertaining to the operation of such vessels shall be taxable only in that Party.

Article 9

Transfer of revenue

Each Contracting Party shall grant to the shipping company of the other Contracting Party the right of free transfer in convertible currency to the country designated by the shipping company of their investments and the returns from it as well as the excess of receipts over expenditure earned by that shipping company in the territory of the first Contracting Party.

Such transfers shall be granted regularly and currently and shall be based, when there are no official exchange rates for current payments, on the prevailing exchange market rates for current payments. No charges other than normal bank charges shall be applicable to such transfers.

Article 10

Recognition of ships' documents

1. The Contracting Parties shall mutually recognize the nationalities of vessels on the basis of the certificate of registry duly issued by the competent authorities of either Party in compliance with its relevant laws and regulations.

2. The Contracting Parties shall, in accordance with the relevant international Conventions, mutually recognize the tonnage certificate and other documents of ships duly issued by the competent authorities of either Party or those recognized by one Contracting Party and met with no objection from the other Party without remeasuring the vessels concerned. All port charges and expenses shall be collected on the basis of these documents.

Article 11

Seamen's documents

The Contracting Parties shall recognize the seaman's identity documents, issued by the competent authorities of the other Contracting Party.

These identity documents are:

- a) for crew members on Netherlands vessels:
the Netherlands "Monsterboekje" (seaman's book);
- b) for crew members on Latvian vessels:
the Latvian Jūrnieka grāmatiņa (seaman's book).

Article 12

Seamen's right to stay

1. Each crew member of a vessel of one Contracting Party may go ashore and stay for temporary shore leave without visas during the stay of their vessel in a port of the other Contracting Party provided that the ship's master has submitted the crew list to the competent authorities in accordance with the regulations in force in that port.

2. When going ashore and returning to the vessel, the person in question shall be subject to the passport control and customs formalities in force in that port.

Article 13

1. Crew members have the right, regardless of the mode of transport, to enter the territory of the other Contracting Party or pass through that territory in order to rejoin their vessel, to be transferred to another vessel, to return to their country, or to travel for any other purpose with the consent of the competent authorities of that other Contracting Party.

2. In all cases referred to in paragraph 1 of this Article, seamen shall be obliged to be in possession of the visa required by the other Contracting Party. This document shall be issued as quickly as possible by the competent authorities.

3. If the holder of a seaman's identity document referred to in Article 11 of this Agreement does not possess the nationality of one of the Con-

tracting Parties, the entry and transit visas referred to in this Article shall be issued for the territory of the other Contracting Party provided the return of the holder to the territory of the Contracting Party which has issued the identity document is guaranteed.

4. Should a crew member disembark in a port on the territory of the other Contracting Party for reasons of health, or other grounds recognized by the competent authorities, these authorities shall give the necessary authorization in order to enable the crew member to remain on their territory to receive medical treatment or to be hospitalized and to return to his country of origin by any means of transport or to go to another port of embarkation.

Article 14

1. Without prejudice to the generality of the Articles 12 and 13, the laws and regulations of either Contracting Party concerning the entry, the stay and the termination of the stay of foreigners, are applicable.

2. The authorizations obtained in Articles 12 and 13 do not imply a restriction to the right of either Contracting Party to refuse any crew member the entry in its territory.

Article 15

Incidents at sea

1. Should vessels of either Contracting Party be involved in maritime casualties or encounter any other danger in the territorial sea, internal waters or ports of the other Contracting Party, the latter shall give all possible assistance and attention to the vessels, crew members, cargo and passengers in danger and notify the appropriate authorities of the Contracting Party concerned without delay. National treatment shall be exercised in the collections of charges incurred.

2. Where cargo on board of a vessel of either Contracting Party involved in a maritime casualty needs to be discharged and stored temporarily in the territory of the other Contracting Party before its return to the country of shipment or carriage to third countries, the other Contracting Party shall facilitate this operation, and such cargo shall be exempt from all customs duties, dues and taxes.

Article 16

Legal proceedings against a crew member

1. The vessels and crew of either Contracting Party shall observe the relevant laws and regulations of the other Contracting Party during their stay in the latter's territorial sea, internal waters and ports. The authori-

ties of either Contracting Party shall not exercise jurisdiction over or intervene in the internal affairs of the vessels of the other Contracting Party in its territorial sea, internal waters and ports, except in the cases and to the extent expressly provided for in generally accepted international rules and regulations and in treaties, in force between the Contracting Parties.

2. When a crew member of a vessel of either Contracting Party has committed a crime onboard that vessel in the territorial sea of the other Contracting Party, the competent authorities of that Contracting Party shall not prosecute him without the consent of the master of the vessel or of a diplomatic or consular officer of the former Contracting Party, unless

- a) the consequences of the crime extend to their territory; or
- b) the crime is of a kind to disturb the peace of their country or the good order of the territorial sea; or
- c) according to the law of their country, the crime is a serious offence; or
- d) the crime has been committed against a foreigner on board the vessel; or
- e) the crime concerns illicit traffic in narcotic drugs or psychotropic substances.

3. The provisions of paragraph 2 of this Article do not affect the right of either Contracting Party to take any steps authorised by its laws for the purpose of arrest or investigation on board a foreign ship passing through the territorial sea after leaving the internal waters.

Article 17

Joint Committee

1. The Competent Authorities of the Contracting Parties shall regulate all questions regarding the implementation and the application of this Agreement.

2. For that purpose the Contracting Parties shall establish a Joint Committee.

3. The Joint Committee shall meet at the request of either Contracting Party and shall comprise representatives of the competent authorities of the Contracting Parties which can invite representatives of the maritime industry to attend any of its meetings. The Joint Committee draws up its own rules and procedures.

4. The Joint Committee shall:
- a) review the situation with regard to the maritime transport of each country;
 - b) study the ways of enhancing cooperation in maritime sectors;

c) discuss matters which might arise from the application of the Agreement and all other matters relating to the improvement of maritime transport relations, and make appropriate recommendations.

Article 18

Application of the Agreement

1. As regards the Kingdom of the Netherlands the present Agreement shall apply to the territory of the Kingdom in Europe and as regards the Republic of Latvia to the territory of the Republic of Latvia.

2. The present Agreement may be extended to the Netherlands Antilles and Aruba.

Article 19

Entry into force and duration

This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have informed each other in writing that the formalities constitutionally required in their respective countries have been complied with.

If either Contracting Party wishes to denounce this Agreement, it shall notify the other Contracting Party in writing and the denunciation of the Agreement shall take effect six months after the date of receipt of such notification by the other Contracting Party. In case of extension of the applicability of the present Agreement to the Netherlands Antilles and/or Aruba the Kingdom of the Netherlands shall be entitled to terminate the application of the present Agreement in respect of any of the constituent parts of the Kingdom.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed the present Agreement in duplicate in the English language, each version being equally authentic.

DONE at Riga, on 4th September in the year 1996.

For the Kingdom of the Netherlands:

(sd.) A. JORRITSMA-LEBBINK

For the Republic of Latvia

(sd.) V. KRIŠTOPANS

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 19, eerste lid, in werking treden op de eerste dag van de tweede maand volgend op de datum waarop de Verdragsluitende Partijen elkaar schriftelijk hebben medegedeeld dat de in hun onderscheiden landen grondwettelijk vereiste formaliteiten zijn vervuld.

J. GEGEVENS

Van het op 14 maart 1994 te 's-Gravenhage tot stand gekomen Verdrag tussen het Koninkrijk der Nederlanden en de Republiek Letland tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen en naar het vermogen, naar welk Verdrag in artikel 1, vierde lid, van het onderhavige Verdrag wordt verwezen, is de tekst geplaatst in *Trb.* 1994, 83 en de vertaling in *Trb.* 1994, 166; zie ook *Trb.* 1995, 16.

Van het op 7 februari 1992 te Maastricht tot stand gekomen Verdrag betreffende de Europese Unie – de Europese Unie wordt in artikel 4, eerste lid, van het onderhavige Verdrag genoemd – is de Nederlandse tekst geplaatst in *Trb.* 1992, 74; zie ook, laatstelijk, *Trb.* 1994, 28.

Van het op 6 april 1974 te Genève tot stand gekomen Verdrag inzake een gedragscode voor lijnvaartconferenties, naar welk Verdrag in artikel 4, tweede lid, van het onderhavige Verdrag wordt verwezen, zijn de Engelse en de Franse tekst geplaatst in *Trb.* 1979, 177 en de vertaling in *Trb.* 1980, 165; zie ook, laatstelijk, *Trb.* 1995, 245.

Uitgegeven de eerste oktober 1996.

De Minister van Buitenlandse Zaken a.i.,

W. KOK