

58 (1997) Nr. 4

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2009 Nr. 94

A. TITEL

*Overeenkomst opgesteld op grond van artikel K.3 van het Verdrag
betreffende de Europese Unie inzake wederzijdse bijstand en
samenwerking tussen de douane-administraties;
(met Bijlage)
Brussel, 18 december 1997*

B. TEKST

De Nederlandse, de Franse en de Engelse tekst van de Overeenkomst zijn geplaatst in *Trb.* 1998, 174.

In dit Tractatenblad dienen op blz. 4, artikel 4, punt 2), derde streepje, de woorden „ter zake van” voor het woord „BTW” te worden ingevoegd.

Voor de Nederlandse tekst van het Besluit van de Raad van 6 december 2007, zie *Trb.* 2008, 54.

D. PARLEMENT

Zie *Trb.* 2006, 129.

E. PARTIJGEGEVENS

Zie *Trb.* 2006, 129.

Partij	Onder-tekening	Ratificatie	Type*	In werking	Opzeg-ging	Buiten werking
België	18-12-97	22-09-04	R	23-06-09		
Bulgarije		06-12-07	T	23-06-09		
Cyprus		15-07-04	T	23-06-09		

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Denemarken	18-12-97	30-08-02	R	23-06-09		
Duitsland	18-12-97	12-11-02	R	23-06-09		
Estland		10-02-05	T	23-06-09		
Finland	18-12-97	27-05-04	R	23-06-09		
Frankrijk	18-12-97	11-08-00	R	23-06-09		
Griekenland	18-12-97	20-06-00	R	23-06-09		
Hongarije		25-11-04	T	23-06-09		
Ierland	18-12-97	27-03-02	R	23-06-09		
Italië	18-12-97	25-03-09	R	23-06-09		
Letland		02-06-04	T	23-06-09		
Litouwen		28-05-04	T	23-06-09		
Luxemburg	18-12-97	30-07-01	R	23-06-09		
Malta		13-07-07	T	23-06-09		
Nederlanden, het Koninkrijk der – Nederland – Ned. Antillen – Aruba	18-12-97	31-01-01 – –	R	23-06-09 – –		
Oostenrijk	18-12-97	08-09-04	R	23-06-09		
Polen		04-11-05	T	23-06-09		
Portugal	18-12-97	19-07-04	R	23-06-09		
Roemenië		06-12-07	T	23-06-09		
Slovenië		08-07-04	T	23-06-09		
Slowakije		11-05-04	T	23-06-09		
Spanje	18-12-97	31-01-01	R	23-06-09		
Tsjechië		28-01-05	T	23-06-09		
Verenigd Koninkrijk, het	18-12-97	07-03-02	R	23-06-09		
Zweden	18-12-97	26-01-01	R	23-06-09		

Partij	Onder-tekening	Ratificatie	Type*	In werking	Opzeg-ging	Buiten werking
* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrchtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend						

Verklaringen, voorbehouden en bezwaren

België, 22 september 2004

Verklaring als bedoeld in artikel 20, lid 6 van de Overeenkomst inzake wederzijdse bijstand en samenwerking tussen de douaneadministraties met betrekking tot de gemeenschappelijke grenzen van het Koninkrijk België met het Koninkrijk der Nederlanden; met het Groothertogdom Luxemburg; met de Bondsrepubliek Duitsland en met de Franse Republiek

a) gemeenschappelijke grenzen van het Koninkrijk België met het Koninkrijk der Nederlanden:

Op Belgisch grondgebied dienen de bevoegde ambtenaren van het Koninkrijk der Nederlanden het achtervolgingsrecht – wat betreft de toepassing van de bevoegdheid tot staandehouding, de territoriale reikwijdte hiervan en de feiten terzake waarvan dit recht kan worden toegepast – uit te oefenen:

- wat betreft de inbreuken bedoeld in artikel 19, lid 2, onder a), b) en d) van deze overeenkomst, overeenkomstig het dienaangaande gestelde in artikel 27 van het Beneluxverdrag aangaande de uitlevering en de rechtshulp in strafzaken van 27 juni 1962, zoals gewijzigd bij het Protocol van 11 mei 1974;
- wat betreft de inbreuken bedoeld in artikel 19, lid 2, onder c) van deze overeenkomst, overeenkomstig het dienaangaande gestelde in artikel 24 van de overeenkomst inzake administratieve en strafrechtelijke samenwerking op het gebied van de regelingen die verband houden met de verwezenlijking van de doelstellingen van de Benelux Economische Unie van 29 april 1969, met aanvullend protocol houdende bijzondere bepalingen op het stuk van de belastingen.

b) gemeenschappelijke grenzen van het Koninkrijk België met het Groothertogdom Luxemburg:

Op Belgisch grondgebied dienen de bevoegde ambtenaren van het Groothertogdom Luxemburg het achtervolgingsrecht – wat betreft de toepassing van de bevoegdheid tot staandehouding, de territoriale reikwijdte hiervan en de feiten terzake waarvan dit recht kan worden toegepast – uit te oefenen:

- wat betreft de inbreuken bedoeld in artikel 19, lid 2, onder a), b) en d) van deze overeenkomst, overeenkomstig het dienaangaande gestelde in artikel 27 van het Beneluxverdrag aangaande de uitlevering en de rechtshulp in strafzaken van 27 juni 1962, zoals gewijzigd bij het Protocol van 11 mei 1974;

- wat betreft de inbreuken bedoeld in artikel 19, lid 2, onder c) van deze overeenkomst, overeenkomstig het dienaangaande gestelde in artikel 24 van de overeenkomst inzake administratieve en strafrechtelijke samenwerking op het gebied van de regelingen die verband houden met de verwezenlijking van de doelstellingen van de Benelux Economische Unie van 29 april 1969, met aanvullend protocol houdende bijzondere bepalingen op het stuk van de belastingen.

c) gemeenschappelijke grenzen van het Koninkrijk België met de Bondsrepubliek Duitsland:

Op Belgisch grondgebied dienen de bevoegde ambtenaren van de Bondsrepubliek Duitsland het achtervolgingsrecht – wat betreft de toepassing van de bevoegdheid tot staandehouding, de territoriale reikwijdte hiervan en de feiten terzake waarvan dit recht kan worden toegepast – uit te oefenen overeenkomstig het volgende onderscheid:

- interpellatierecht in uiterst dringende gevallen, zoals voorzien in art. 20, lid 2, b)
- achtervolging zonder beperking in tijd en ruimte
- achtervolging van personen die als dader of mededader op heterdaad zijn betrapt op één van de in artikel 19, lid 2, genoemde inbreuken die aanleiding kunnen geven tot uitlevering.

d) gemeenschappelijke grenzen van het Koninkrijk België met de Franse Republiek:

Op Belgisch grondgebied dienen de bevoegde ambtenaren van de Franse Republiek het achtervolgingsrecht – wat betreft de toepassing van de bevoegdheid tot staandehouding, de territoriale reikwijdte hiervan en de feiten terzake waarvan dit recht kan worden toegepast – uit te oefenen overeenkomstig het volgende onderscheid:

- geen interpellatierecht
- achtervolging zonder beperking in tijd en ruimte
- achtervolging van personen die als dader of mededader op heterdaad zijn betrapt op één van de in artikel 19, lid 2, genoemde inbreuken die aanleiding kunnen geven tot uitlevering.

België, 16 maart 2007

Overeenkomstig artikel 32, vierde lid, van de Overeenkomst, verklaart het Koninkrijk België dat tot de inwerkingtreding van de Overeenkomst, die Overeenkomst met uitzondering van artikel 26, op het Koninkrijk België van toepassing is in zijn betrekkingen met de andere lidstaten die dezelfde verklaring hebben afgelegd. Het Koninkrijk België verklaart de bevoegdheid van het Hof van Justitie van de Europese Gemeenschappen te aanvaarden volgens de in artikel 26, lid 5, onder b), vermelde modaliteiten.

Bulgarije, 2 februari 2007

In accordance with article 20, paragraph 8 of the Convention, the Republic of Bulgaria declares that it is not bound by the provisions of article 20.

In accordance with article 21, paragraph 5 of the Convention, the Republic of Bulgaria declares that it is not bound by the provisions of article 21.

In accordance with article 23, paragraph 5 of the Convention, the Republic of Bulgaria declares that it is not bound by the provisions of article 23.

In accordance with article 26, paragraph 4 of the Convention, the Republic of Bulgaria declares that it accepts the jurisdiction of the Court of Justice of the European Communities in the circumstances laid down in article 26, paragraph 5 (b).

In accordance with article 32, paragraph 4 of the Convention, the Republic of Bulgaria declares that as far as it is concerns this Convention, with the exception of article 26 thereof, will apply to its relations with Member States which have made the same declaration.

Cyprus, 29 juni 2007

Pursuant to paragraph (4) of Article 32 of the Convention, drawn up on the basis of Article K3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, the Republic of Cyprus declares that, until the Convention enters into force, the Convention shall apply to the Republic of Cyprus, with the exception of Article 26 thereof, in its relations with Member States, which have made the same declaration on the basis of paragraph (4) of Article 32 of the Convention.

Denemarken, 30 augustus 2002

In connection with the ratification of the Naples II Convention, Denmark wishes to make the declarations set out below. Denmark has previously made declarations on Articles 1(2), 3(2), 4(3) and 6(4) of the Naples II Convention. We assume that those declarations remain annexed to the Convention. As Article 4 is not divided into paragraphs, but is a numbered list, it should be made clear that the declaration relates to item number 3 on the list in Article 4 (not paragraph 3). Law No 465 of 7 June 2001 on amendments to the Criminal Code and to the Administration of Justice Act (receiving stolen goods and other subsequent assistance, and IT investigations) introduced a general provision on receiving stolen goods in Section 290 of the Criminal Code. At the same time, Sections 191a and 284 of the Criminal Code were repealed. The reference to these sections in the declaration on the third indent of Article 4(3) are therefore no longer in accordance with the Criminal Code. The declaration should therefore be amended as follows:

Re Article 4(3), third indent Denmark declares, as far as it is concerned, that Article 4(3), third indent, applies only to the predicate offences in respect of which at any time receiving stolen goods is punishable under Danish law (Section 290 of the Criminal Code).

On signing the Convention, Denmark also made a declaration under Article 20(6) on the conditions for pursuit:

Denmark declares that pursuit into Denmark over the borders from Sweden and Germany may only take place on the following conditions:

- the Swedish and German authorities have the right to continue an ongoing pursuit on Danish territory for a distance of up to 25 km from the border;
- the Swedish and German authorities do not have the right to apprehend persons in Danish territory.

Denmark has also made declarations on Article 20 and Article 21. As those Articles state that when depositing its instruments of adoption of the Convention, a Member State may declare that it is not bound by that Article or by part thereof, we believe that these declarations should be presented once again. The Danish declarations:

Re Article 20(4)(e) Denmark declares, as far as it is concerned, that pursuing customs officers may carry their service weapons over the land border, unless Denmark has expressly objected to this. Denmark also declares, as far as it is concerned, that if the pursuit is continued into Danish territory by boat or aeroplane, the pursuing customs officers may not in principle carry their service weapons.

Re Article 20(8) Denmark declares that it accepts the provisions of Article 20, subject to the following conditions:

In case of a hot pursuit exercised by the customs authorities of another Member State at sea or through the air, such pursuit may be extended to Danish territory, including Danish territorial waters and the airspace above Danish territory and territorial waters, only if the competent Danish authorities have received prior notice thereof.

Re Article 21(3)(d) Denmark declares, as far as it is concerned, that customs officers conducting cross-border observation may carry their service weapons over the land border, unless Denmark has expressly objected to this.

Denmark also declares, as far as it is concerned, that if the observation is continued into Danish territory by boat or aeroplane, the customs officers conducting the observation may not in principle carry their service weapons.

Re Article 21(5) Denmark declares that it accepts the provisions of Article 21, subject to the following conditions:

Cross-border surveillance without prior authorisation may be carried out only in accordance with Article 21(2) and (3) if there are serious grounds for believing that the persons under observation are involved in one of the infringements referred to in Article 19(2) which could give rise to extradition.

Re Article 23(5) Denmark declares that it is not bound by Article 23.

Re Article 26(4) and (5) Denmark declares that all Danish courts are entitled but not obliged to request the Court of Justice to give a preliminary ruling on a question raised in a case concerning the interpretation of the Convention, if the court concerned considers that a decision on the question is necessary to enable it to give judgment.

Duitsland, 12 november 2002

Article 20(6) (hot pursuit)

Competent officers of the Member States will exercise the right of pursuit on the territory of the Federal Republic of Germany without any limit in space or time (Article 20(4)(b)) and will have the right to apprehend (Article 20(2)). Officers of Member States which have fully excluded the application of this Article pursuant to paragraph 8 will not have that right.

Article 26 (ECJ's power to give a preliminary ruling)

Declaration No 9 (former No 10), Annex to the Convention The Federal Republic of Germany shall be included in the text of the declarations.

The Federal Republic of Germany hereby makes the declaration pursuant to Article 26(5)(b).

Possibility for any court or tribunal to refer a matter to the Court of Justice of the European Communities for a preliminary ruling.

The Federal Republic of Germany hereby makes the declaration regarding the requirement for referral by courts or tribunals of last instance. The Federal Republic of Germany declares, in accordance with Article 32(4) of the Convention, that, with the exception of Article 26 thereof, that as far as the Federal Republic of Germany is concerned, this Convention shall apply to its relations with Member States that have made the same declaration.

Estland, 10 februari 2005

1) according to Article 20 paragraph 2(a) of the Convention the pursuing officers of another Member State shall not have the right to apprehend a person in the territory of the Republic of Estonia;

2) according to Article 20 paragraph 3 of the Convention the pursuit carried on as from the crossing of its border shall be without limit in space or time;

3) according to Article 20 paragraph 4(e) of the Convention the pursuing officers may carry their service weapons on the basis of reciprocity;

4) according to Article 26 paragraph 4 of the Convention a court of Estonia may request the European Court of Justice to give a preliminary ruling on a question concerning the interpretation of the Convention raised in a case pending before it, if that court considers that a decision on that question is necessary to enable it to give judgement;

5) according to Article 32 paragraph 4 of the Convention the Convention, with the exception of Article 23 thereof, shall apply to its relations with Member States that have made the same declaration;

2. the Tax and Customs Board shall inform the depositary of the officers to whom Article 20 paragraph 1 and Article 21 paragraph 1 of the Convention apply;

3. the designated authority referred to in Article 21 paragraph 1 of the Convention, is the Tax and Customs Board.

Finland, 27 mei 2004

The government of the Republic of Finland also wishes to make the following statement:

Re Article 20 of the Convention:

Under Article 20 a pursuing officer has the right to apprehend in accordance with Article 20(2)(b) and the right to pursuit applies in accordance with Article 20(3)(b) without limits in space or time.

In addition, the government of the Republic of Finland wishes to make the following declarations:

Re Article 26(4) and (5)(b) of the Convention:

Any Finnish court or tribunal may request the Court of Justice of the European Communities to give a preliminary ruling in the situations referred to in the Article.

Re Article 32(4) of the Convention:

The Convention, with the exception of Article 26 thereof, shall apply until its entry into force to Finland's relations with other Member States that have made a declaration to the same effect.

Frankrijk, 11 augustus 2000

I. Declaration under Article 20:

The competent officers of the Member States may exercise the right of hot pursuit in the territory of the French Republic within the meaning of Article 31 subject to such limits of time or space (Article 20(3)(a)) as we agreed on the basis of reciprocity (Article 20(6)). Under no circumstances will such officers have the right to apprehend the person or persons pursued in the territory of the French Republic as referred to above. Member States which, in accordance with Article 20(8), have declared that they are not bound by that Article may not avail themselves of this authorisation.

II. Declaration under Article 23(5):

France declares that it is not bound by any of the provisions of Article 23 of the Convention because of restrictions arising from its domestic legal order.

III. Declaration under Article 32(4):

France declares that it will implement the Convention in advance, with the exception of Article 26 thereof, in its relations with Member States that have made a similar declaration on the basis of Article 32(4).

Frankrijk, 25 juli 2005

Intrekking van onderdeel II van de verklaring van 11 augustus 2000

Griekenland, 20 juni 2000

Declaration under Article 20(8) of Law 2772/99:

The Hellenic Republic states, pursuant to Article 20(8) (hot pursuit) of the Convention on Mutual Assistance and Cooperation between Customs Administrations, that it is not bound by the provisions of that Article.

Declaration under Article 21(5) of Law 2772/99:

The Hellenic Republic states, pursuant to Article 21(5) (cross-border surveillance) of the Convention on Mutual Assistance and Cooperation between Customs Administrations, that it is not bound by the provisions of that Article.

Declaration under Article 23(5) of Law 2772/99:

The Hellenic Republic states, pursuant to Article 23(5) (covert investigations) of the Convention on Mutual Assistance and Cooperation between Customs Administrations, that it is not bound by the provisions of that Article.

Griekenland, 31 juli 2008

In accordance with Article 32, paragraph 4 ('Entry into force') of the Convention on mutual assistance and cooperation between customs administrations, the Hellenic Republic declares that as far as it is concerned this Convention, with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same declaration.

Hongarije, 25 november 2004

1. To paragraph 6 of Article 20

a) Pursuant to paragraph 2 of Article 20:

Customs administrative officers to be specified pursuant to paragraph 1 of Article 20 of the Convention may not take other measures during the pursuit than apprehend in accordance with the subparagraph b) of paragraph 2 of Article 20 of the Convention on the territory of the Republic of Hungary.

b) Pursuant to paragraph 3 of Article 20:

The pursuit will not be subject to any limit in space or time.

c) Pursuant to paragraph 4 of Article 20:

The Republic of Hungary wishes to regulate the detailed conditions of the pursuit in bilateral Agreements on prevention and suppression the cross-border crime with the Member States of the European Union.

d) Pursuant to paragraph 8 of Article 20:

Declarations of the Republic of Hungary made pursuant to paragraph 6 of Article 20 refer to those Member States, who do not exclude wholly or partly the application of Article 20 pursuant its paragraph 8.

2. To paragraph 5 of Article 23:

Pursuant to the application of covert investigation specified in Article 23, in the territory of the Republic of Hungary besides the provisions of this

Convention, the bilateral Agreements on prevention and suppression of cross-border crime and ad hoc Agreements referring to certain cases are applicable.

3. To paragraph 4 of Article 26:

According to paragraph 2 of Article 35 of the Treaty on European Union, the Republic of Hungary recognises the jurisdiction of the Court of the European Communities stated in subparagraph b) of paragraph 3 of Article 35 of the Treaty on European Union.

4. To paragraph 4 of Article 32:

The Republic of Hungary declares that, until the Convention enters into force, the Convention shall apply to the Republic of Hungary in its relations with Member States that have made the same declaration about the provisional application.

Ierland, 30 maart 2004

Declaration relating to Article 20 paragraph 6 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations
Ireland intends to make a declaration pursuant to Article 20 paragraph 8 when depositing its instruments of adoption of the said Convention stating that it is not bound by that Article; accordingly, there are no procedures to define on the basis of paragraphs 2, 3 and 4 of that Article for implementing pursuit in Ireland.

Declaration relating to Article 26 paragraph 4 and paragraph 5(a) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations

Any court or tribunal of Ireland against whose decisions there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the said Convention if that court or tribunal considers that a decision on the question is necessary to enable it to give judgement.

Ireland declares that:

- It is not bound by Article 20, or by any part thereof, of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, done at Brussels on 18 December 1997. This Declaration is made pursuant to Article 20(8) of that Convention;
- it is not bound by Article 21, or by any part thereof, of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, done at Brussels on 18 December 1997. This Declaration is made pursuant to Article 21(5) of that Convention;
- it is not bound by Article 23, or by any part thereof, of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Admi-

nistrations, done at Brussels on 18 December 1997. This Declaration is made pursuant to Article 23(5) of the Convention.

Declaration pursuant to Article 32 (4):

As far as Ireland is concerned the said Convention, with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same declaration.

Italië, 18 december 1997

Declaration by the Italian Republic under Article 20(6) of the Naples II Convention.

The competent officers of the Member States may exercise the right of hot pursuit in the territory of the Italian Republic as referred to in Article 31 subject to such limits of time and space as are agreed on the basis of reciprocity. Under no circumstances will such officers have the right to apprehend the person or persons pursued in the territory of the Italian Republic.

Officers of Member States which, pursuant to Article 20(8), have declared that they are not bound by that Article shall not have the right of hot pursuit.

Declarations under Article 26:

Italy declares that it accepts the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of this Convention on the terms specified in Article 26(5)(b).

Italy declares that it reserves the right to make provision in its national law to the effect that, where a question relating to the interpretation of the Convention on mutual assistance and cooperation between customs administrations is raised in a case pending before national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal will be required to refer the matter to the Court of Justice of the European Communities.

Letland, 2 juni 2004

In accordance with paragraph 5 of Article 21 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, the Republic of Latvia declares that it is not bound by this Article.

In accordance with paragraph 8 of Article 20 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, the Republic of Latvia declares that it is not bound by this Article.

In accordance with paragraph 5 of Article 23 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, the Republic of Latvia declares that it is not bound by this Article.

In accordance with paragraph 4 of Article 26 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations,

the Republic of Latvia declares that it accepts the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Convention as specified in paragraph 5(a).

Letland, 23 juni 2009

Pursuant to Article 32 (4) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Mutual Assistance and Cooperation between Customs Administrations, signed at Brussels on 18 December 1997, the Republic of Latvia declares that as far as it is concerned this Convention, with the exception of Article 23 thereof, shall apply to its relations with Member States that have made the same declaration.

Litouwen, 28 mei 2004

Whereas, the Seimas of the Republic of Lithuania states that until consultations necessary for the application of equivalent procedures have been held with other interested Member States of the European Union, the Republic of Lithuania has no possibilities to make a declaration specified in Article 20 (6) of the Convention.

Whereas, pursuant to Article 26 (4) of the Convention, the Seimas of the Republic of Lithuania states that the Republic of Lithuania recognises that the Court of Justice of the European Communities has jurisdiction, pursuant to the conditions laid down in Article 26 (5)(b) of this Convention, to give preliminary rulings concerning the interpretation of the Convention.

Whereas, pursuant to Article 33 (5) of the Convention, the Seimas of the Republic of Lithuania states that in case this Convention has not entered into force by the time of the deposit by the Republic of Lithuania of its instrument of accession, the Convention, except for its Article 23, shall apply in respect of the relations of the Republic of Lithuania with the other Member States of the European Union who have made the same declaration.

Luxemburg, 30 juli 2001

1. As regards the border between the Grand Duchy of Luxembourg and the Kingdom of Belgium, pursuit will be effected in accordance with the arrangements laid down in Article 27 of the Benelux Treaty on Extradition and Mutual Assistance in Criminal Matters of 27 June 1962, as amended by the Protocol of 11 May 1974, as regards the infringements referred to in Article 19(2)(a), (b) and (d) of this Convention, and, as regards the infringements referred to in Article 19(2)(c) of this Convention, in accordance with the rules contained in Article 24 of the Convention on administrative and judicial cooperation in the field of regulations relating to the achievement of the objectives of the Benelux Economic Union of 29 April 1969 and the Additional Protocol thereto containing specific provisions on taxation.

2. As regards the border between the Grand Duchy of Luxembourg and the Federal Republic of Germany, pursuit by the officers referred to in Article 20(1) will be effected in the territory of the Grand Duchy of Luxembourg in accordance with the following arrangements: (a) officers will have the right to apprehend under the conditions laid down in Article 20(2) and (5); (b) pursuit may be effected only within a 10-kilometre radius of the border.

3. As regards the border between the Grand Duchy of Luxembourg and the French Republic, pursuit by the officers referred to in Article 20 will be effected in the territory of the Grand Duchy of Luxembourg in accordance with the following arrangements: (a) officers will have no right to apprehend; (b) pursuit may be effected only within a 10-kilometre radius of the border.

I would also inform you that the Luxembourg law approving the Convention contains the following reservations:

Article 2. – The particular forms of cooperation provided for in Articles 21 to 24 of the Convention shall be subject to the agreement of the State Public Prosecutor having territorial jurisdiction.

In the case of hot pursuit provided for in Article 20 of the Convention, the request to cease the pursuit shall come from the State Public Prosecutor having territorial jurisdiction.

Article 3. – The Grand Duchy of Luxembourg accepts the jurisdiction of the Court of Justice of the European Communities in accordance with the arrangements laid down in Article 26(5)(b) of the Convention.

The Grand Duchy of Luxembourg declares that it will apply in advance the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Administrations, with the exception of Article 26 thereof, in its relations with Member States which have made or make a similar declaration on the basis of Article 32(4) of the Convention.

Malta, 13 juli 2007

In accordance with Article 30 of the Convention Malta opts out of the provisions on “hot pursuit” (Article 20), cross-border surveillance (Article 21) and covert investigations (Article 23).

Malta, 15 mei 2008

Malta declares that as far as it is concerned and until this Convention enters into force, the said Convention with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same Declaration under Article 32(4).

Nederlanden, het Koninkrijk der, 31 januari 2001

Verklaring als bedoeld in artikel 20, lid 6, van de Overeenkomst inzake wederzijdse bijstand en samenwerking tussen de douane-administraties met betrekking tot de gemeenschappelijke grens van het Koninkrijk der Nederlanden met het Koninkrijk België.

Op Nederlands grondgebied dienen de bevoegde ambtenaren van het Koninkrijk België het achtervolgingsrecht – wat betreft de toepassing van de bevoegdheid tot staandehouding, de territoriale reikwijdte hiervan en de feiten terzake waarvan dit recht kan worden toegepast – uit te oefenen:

– wat betreft de inbreuken bedoeld in artikel 19, lid 2, onder a), b) en d) van deze Overeenkomst, overeenkomstig het dienaangaande gestelde in artikel 27 van het Benelux-verdrag aangaande de uitlevering en de rechtshulp in strafzaken van 27 juni 1962, zoals gewijzigd bij het Protocol van 11 mei 1974;

– wat betreft de inbreuken bedoeld in artikel 19, lid 2, onder c) van deze Overeenkomst, overeenkomstig het dienaangaande gestelde in artikel 24 van de Overeenkomst inzake de administratieve en strafrechtelijke samenwerking op het gebied van de regelingen die verband houden met de verwezenlijking van de doelstellingen van de Benelux Economische Unie van 29 april 1969, met aanvullend Protocol houdende bijzondere bepalingen op het stuk van de belastingen, voorzover verenigbaar met artikel 20 van deze Overeenkomst.

Verklaring als bedoeld in artikel 20, lid 6, van de Overeenkomst inzake wederzijdse bijstand en samenwerking tussen de douane-administraties met betrekking tot de gemeenschappelijke grens van het Koninkrijk der Nederlanden met de Bondsrepubliek Duitsland.

Op Nederlands grondgebied dienen de bevoegde ambtenaren van de Bondsrepubliek Duitsland het achtervolgingsrecht uit te oefenen binnen een zone van 10 kilometer evenwijdig aan de gemeenschappelijke grens, alwaar zij op de openbare weg en openbare terreinen tot staandehouding van de achtervolgde persoon mogen overgaan, mits er sprake is van verdenking wegens één van de in artikel 19, lid 2, genoemde inbreuken die aanleiding kunnen geven tot uitlevering.

1) Verklaring bij artikel 26, vijfde lid, onder b):

Nederland verklaart de bevoegdheid van het Hof van Justitie van de Europese Gemeenschap te aanvaarden om bij wijze van prejudiciële beslissing, op verzoek van elke nationale rechterlijke instantie van Nederland, een uitspraak te doen over een vraag betreffende de uitlegging van de Overeenkomst, die wordt opgeworpen in een bij die instantie aanhangig gemaakte zaak, indien deze een beslissing op dit punt noodzakelijk acht voor het wijzen van haar vonnis.

2) Verklaring bij artikel 32, vierde lid:

Nederland verklaart dat tot de inwerkingtreding van de Overeenkomst, die Overeenkomst met uitzondering van artikel 26, op Nederland van toepassing is in zijn betrekkingen met de andere lidstaten die eenzelfde verklaring hebben afgelegd.

Het Koninkrijk der Nederlanden verklaart overeenkomstig artikel 10, negende lid, dat de eerste alinea van het negende lid, van artikel 10, niet zal worden toegepast.

Het Koninkrijk der Nederlanden verklaart overeenkomstig artikel 24, eerste lid, dat de autoriteiten, welke al zijn aangegeven in het Europees

Rechtshulpverdrag en het Beneluxverdrag, bevoegd zijn tot toepassing van deze Overeenkomst en het bijbehorende Protocol en dat voorts worden aangewezen als:

- bestuurlijke autoriteiten in de zin van artikel 3, eerste lid: de officier van justitie en het Centraal Justitieel Incassobureau;
- bevoegde centrale autoriteit in de zin van artikel 6, tweede en achtste lid: het Bureau Internationale Rechtshulp van het Ministerie van Justitie te 's-Gravenhage;
- bevoegde autoriteiten in de zin van artikel 6, vijfde lid: de officier van justitie voor inkomende en uitgaande verzoeken en voor de aangifte van een lidstaat tot het instellen van strafvervolgning voor de rechter in een andere lidstaat en de rechtercommissaris voor uitgaande verzoeken;
- bestuurlijke autoriteiten in de zin van artikel 6, zesde lid: het Centraal Justitieel Incassobureau te Leeuwarden;
- bevoegde autoriteiten in de zin van de artikelen 18, 19 en 20, eerste tot en met vijfde lid: de officier van justitie, en
- bevoegde autoriteit om de kennisgeving te ontvangen, bedoeld in artikel 20, tweede lid: het Bureau Sirene van Nederland.

Het Koninkrijk der Nederlanden verklaart overeenkomstig artikel 27, vijfde lid, dat de Overeenkomst tot haar inwerkingtreding zal worden toegepast in zijn betrekkingen met de lidstaten die eenzelfde verklaring hebben afgelegd.

Oostenrijk, 8 september 2004

Under Article 20(6):

A. With respect to the common border between the Republic of Austria and the Federal Republic of Germany: Customs administration officers to be specified pursuant to Article 20(1) of the Convention will carry out pursuit in accordance with the following procedures:

- (a) the pursuing officers will be given the right to apprehend in accordance with Article 20(2)(b),(4) and (5);
- (b) the pursuit will not be subject to any limit in space or time (Article 20(3)(b)).

B. With respect to the common border between the Republic of Austria and the Italian Republic:

Customs administration officers to be specified pursuant to Article 20(1) of the Convention will carry out pursuit in accordance with the following procedures:

- (a) the pursuing officers will not have the right to apprehend (Article 20(2)(a));
- (b) the pursuit may be carried out over a distance of 20 kilometres in the case of motorways and, otherwise, over a distance of up to 10 kilometres (Article 20(3)(a)).

Under Article 23(5):

Pursuant to Article 23(5) (Covert investigations) of the Convention on Mutual Assistance and Co-operation between Customs Admini-

strations, the Republic of Austria declares that it will allow operations by covert investigators only if, in the other Member State, criminal proceedings are pending in respect of offences which fulfil the conditions for the issue of a European arrest warrant and it would be completely impossible or extremely difficult to elucidate the facts without recourse to the proposed covert operation.

Under Article 26(4):

The Republic of Austria accepts the jurisdiction of the Court of Justice of the European Communities under the terms of Article 26(5)(b).

Re Article 26:

The Republic of Austria reserves the right to make provision in its national law to the effect that, where a question relating to the interpretation of the Convention on mutual assistance and cooperation between customs administrations is raised in a case pending before a national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal will be required to refer the matter to the Court of Justice of the European Communities.

Under Article 32(4):

In accordance with Article 32(4) the Republic of Austria declares that, until its entry into force, this Convention, with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same declaration. This declaration shall take effect ninety days after the date of deposit thereof.

Polen, 4 november 2005

Declaration pursuant to Article 20(8) (hot pursuit):

The Republic of Poland declares that Article 20 of this Convention shall not bind the Republic of Poland.

Declarations pursuant to Article 21(5) (cross-border surveillance):

The Republic of Poland declares that Article 21 of this Convention can be applied by the competent authorities of other Member States in respect of the Republic of Poland in accordance with the principle of reciprocity.

The Republic of Poland also declares that officers of the competent authorities of Member States may carry their service weapons into the territory of the Republic of Poland but may use them only in cases of legitimate self-defence, as laid down in Article 25 of the Law of 6 June 1997 – Penal Code (O.J. of 1997, No 88, item 553, as amended).

The Republic of Poland declares that Article 21(3)(d) of this Convention can be applied by the competent authorities of other Member States in respect of the Republic of Poland in accordance with the principle of reciprocity.

Declaration pursuant to Article 23(5) (covert investigations):

The Republic of Poland declares that Article 23 of this Convention can be applied by the competent authorities of other Member States in respect of the Republic of Poland in accordance with the principle of reciprocity.

Declaration pursuant to Article 26(4):

The Republic of Poland declares that it will submit the declaration referred to in Article 26(4) at a later date.

Declaration pursuant to Article 32(4):

The Republic of Poland declares that it will apply the Convention, with the exception of Article 26 thereof, in its relations with Member States that have made the same declaration.

Portugal, 19 juli 2004

1 In accordance with Article 20(6) of the Convention, the Portuguese Republic declares that officers of the customs administrations of Member States may continue pursuit in the territory of the Portuguese Republic subject to the following conditions:

- a) the pursuing officers may not arrest the pursued person;
- b) the pursuit can be completed up to 50 km from the border or for two hours.

2 In accordance with Article 26(4) of the Convention, the Portuguese Republic declares that:

(a) it accepts the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Convention;

(b) to that end, in accordance with the rules set out in Article 26(5)(b), any national court or tribunal may submit to the Court of Justice a question raised in a case pending before it and concerning the interpretation of the Convention if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

3 In accordance with Article 32(4) of the Convention, the Portuguese Republic declares that the present Convention, with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same declaration.

Slovenië, 8 juli 2004

Pursuant to Article 20, paragraph 8 of the Convention, Slovenia declares that it is not bound by Article 20.

Pursuant to Article 21, paragraph 5, Slovenia declares that it is not bound by Article 21.

Pursuant to Article 23, paragraph 5, Slovenia declares that it is not bound by Article 23.

Pursuant to Article 26, paragraph 4, Slovenia accepts the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of this Convention as specified in paragraph 5(a).

Pursuant to Article 32, paragraph 4, Slovenia declares that as far as it is concerned this Convention, with the exception of Article 26 thereof, shall apply to its relations with Member States that have made the same declaration.

Slowakije, 11 mei 2004

Re Articles 1 (2) and 3 (2):

The Slovak Republic declares that the term “judicial authority” for the purpose of this Convention in the Slovak Republic means the Ministry of Justice, General Prosecutor Office, all courts and prosecutor offices regardless of its designation.

Re Article 20 (1):

The Slovak Republic informs depository of the following: Officers carrying out hot pursuit under conditions of Article 20 (1) means customs officers of Customs Administration.

Re Article 20 (6):

The Slovak Republic informs that since consultations to be held with respective Member States with a view to obtaining equivalent arrangements in those States have not yet taken place, it is unable to make the declaration referred to in Article 20 (6) concerning procedures for implementing pursuit in its territory. Slovak Republic will make declaration after conducting consultations with respective Member States.

Re Article 20 (8):

The Slovak Republic declares that it accepts the provisions of Article 20 subject to the following conditions: in a case of a hot cross-border pursuit exercised by the customs authorities of another Member State or through the airspace, such pursuit may be extended in the Slovak territory, including the airspace above Slovak territory, only if the competent Slovak authorities have given prior consent thereof and at the same time the Member States exercise reciprocal measures to customs administration of the Slovak Republic.

Re Article 21 (1):

Officers, under conditions of this Article, are in the Slovak Republic officers of the Special Unit of the Police Force – or Customs Administration of the Slovak Republic. Authority designated for this purpose in the Slovak Republic is Customs Directorate of the Slovak Republic, Customs Criminal Office – Central Coordinating Unit.

Re Article 21 (5):

The Slovak Republic declares that it accepts provisions of Article 21 subject to the following conditions: cross – border surveillance without prior authorisation may be carried out only in accordance with Article 21 (2) and (3) if there are serious grounds for suspicion that the persons under observation are involved in one of the infringements referred to in Article 19 (2), which could give rise to extradition and the same time Members States exercise reciprocal measures to Customs Authorities of the Slovak Republic. Declaration to Article 21(1):

The Slovak Republic declares, that the second sentence of the declaration to Article 21(1) shall be replaced by the following: “Authority designated for this purpose in the Slovak Republic is Customs Criminal Office – Central Coordinating Unit”.

Declaration to Article 26(4):

The Slovak Republic declares, in accordance with Article 26(4), that it accepts the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of this convention pursuant to Article 26(5)(a), which means, that any court or tribunal against whose decision there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary rulings on a question raised in a case pending before it and concerning the interpretation of Convention on mutual assistance and cooperation between customs administration if that court or tribunal considers that a decision on the question is necessary to enable it to give judgement.

Declaration to Article 32(4):

The Slovak Republic declares, in terms of Article 32 paragraph 4 that it will apply the Convention, with the exception of Article 26 thereof, in its relations with Member States that have made the same declaration.

Spanje, 31 januari 2001

The Kingdom of Spain states that, since the prior consultations to be held with each of the Member States concerned with a view to obtaining equivalent arrangements in those States have not taken place, it is unable to make the declaration referred to in Article 20(6) concerning procedures for implementing pursuit in its territory. It therefore urges the Presidency to take the appropriate steps for such consultations to be held as soon as possible, thus enabling the Member States to make the aforementioned declaration.

In connection with the adoption of the Convention on Mutual Assistance and Cooperation between Customs Administrations, Spain makes the following declarations:

Re Article 26 : In accordance with Article 26(4), Spain declares that it accepts the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of this convention as specified in Article 26(5)(a).

Spain reserves the right to provide that when the question arises before any of its courts or tribunals against the decisions there is no judicial remedy under national law, that court or tribunal will be obliged to refer the matter to the Court of Justice of the European Communities.

Re Article 32: In accordance with Article 32(4) Spain declares that until it enters into force this convention, with the exception of Article 26 thereof, shall apply to its relations with those Member States that have made the same declaration. This declaration shall take effect ninety days after the date on which it is deposited.

The President of the Congress of Deputies has stated that, on 30 April 2003, the Congress of Deputies granted its consent for Spain to agree to the obligations arising from the declarations provided for under Articles 5(1), 20(1), 20(6) and 21(1), second and fifth subparagraphs, of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on Mutual Assistance and Cooperation between Customs Admi-

nistrations, signed in Brussels on 18 December 1997. Similarly, on 10 June 2003 the Senate granted its consent for Spain to be bound by the aforementioned declarations.

Tsjechië, 28 januari 2005

1. Re Articles 1(2) and 3(2):

The Czech Republic declares that it interprets the terms “judicial authorities” and “judicial authority” in Articles 1(2) and 3(2) of the Convention in the sense of its declarations made pursuant to Article 24 of the European Convention on Mutual Assistance in Criminal Matters, signed in Strasbourg on 20 April 1959.

2. Re Article 4(7):

The Czech Republic declares that, as regards cooperation under Title IV of the Convention, “customs administrations” shall also include the police of the Czech Republic.

3. Re Article 20(1):

The Czech Republic states that the authorisation to act pursuant to this Article shall apply in the Czech Republic to officers of the authorities of the Customs Administration of the Czech Republic, who shall have the status of police authorities under national law, and to the police of the Czech Republic.

4. Re Article 20(6):

The Czech Republic declares that the competent officers of the Member States shall exercise hot pursuit in the territory of the Czech Republic without limit in space or time (Article 20(3)(b)) and may apprehend the person pursued (Article 20(2)(b)). This authorisation shall not apply to officers of Member States which have completely excluded application of this Article pursuant to paragraph 8 thereof.

5. Re Article 21(1):

The Czech Republic states that authorisation to act pursuant to this Article shall apply in the Czech Republic to the authorities of the Customs Administration of the Czech Republic, which shall have the status of police authorities under national law, and to the police of the Czech Republic.

6. Re Article 21(5):

The Czech Republic declares that it accepts the provisions of Article 21 subject to the following conditions: Cross-border surveillance may be carried out pursuant to Article 21(1), (2) and (3) only if there are serious grounds for believing that the persons under observation are involved in one of the infringements referred to in Article 19(2), which carry the maximum sentence of at least one year of imprisonment in the requesting State, and only for the purpose of evidence in criminal proceedings.

7. Re Article 26(4):

The Czech Republic declares that it accepts the jurisdiction of the Court of Justice of the European Communities under Article 26(5)(b) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs

administrations. The Czech Republic reserves the right to provide in its national law that, where a question relating to the interpretation of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations is raised in a case pending before a national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal be required to refer the matter to the Court of Justice of the European Communities.

8. Re Article 32 (4):

The Czech Republic declares, in terms of Article 32 paragraph 4, that as far as it is concerned this Convention, with the exception of Article 26 thereof, shall apply to its relations with the Member States that have made the same declaration.

Verenigd Koninkrijk, het, 7 maart 2002

The United Kingdom declares that:

- Article 20 of this Convention does not bind it;
- weapons may never be carried into its territory for the purposes of Article 21 of this Convention;
- with the exception of Article 26 thereof, the Convention shall in terms as hereby notified by the United Kingdom apply to its relations with Member States that have made a declaration under Article 32(4).

Zweden, 18 december 1997

In connection with the signing of the Convention on Mutual Assistance and Cooperation between Customs Administrations, Sweden states, with reference to Article 20(6), that the provisions in paragraphs 2, 3 and 4 of that Article will be implemented in the following way:

As regards Articles 20(3), point (b) will apply.

Zweden, 26 januari 2001

In connection with the adoption of the Convention on Mutual Assistance and Cooperation between Customs Administrations, Sweden makes the following declarations:

With reference to Article 23(5) of the Customs Cooperation Convention, Sweden does not intend to apply the covert investigation form of cooperation. With reference to Article 26(5)(b) of the Customs Cooperation Convention, all Swedish courts or tribunals are entitled to obtain a preliminary ruling on the interpretation of the Convention to the extent necessary for a decision in a case or on a matter,

With reference to Article 32(4) of the Customs Cooperation Convention, until the Convention enters into force, it shall, with the exception of Article 26 thereof, apply to Sweden's relations with States that have made the same declaration.

F. VOORLOPIGE TOEPASSING

Zie *Trb.* 2006, 129.

Partij	Voorlopige toepassing
België	14-06-2007
Bulgarije	03-05-2007
Cyprus	27-10-2007
Denemarken	28-11-2002
Duitsland	10-02-2003
Estland	11-05-2005
Finland	25-08-2004
Frankrijk	28-04-2001
Griekenland	29-10-2008
Hongarije	23-02-2005
Ierland	28-06-2004
Letland	07-12-2008
Litouwen	26-08-2004
Luxemburg	03-05-2006
Malta	13-08-2008
Nederlanden, het Koninkrijk der	03-05-2001
Oostenrijk	07-12-2004
Polen	02-02-2006
Portugal	17-10-2004
Slovenie	06-10-2004
Slowakije	02-08-2006
Spanje	03-05-2001
Tsjechië	28-04-2005
Verenigd Koninkrijk, het	05-06-2002
Zweden	28-04-2001

G. INWERKINGTREDING

Zie *Trb.* 1998, 174 en *Trb.* 2008, 54.

Het Besluit van 6 december 2007 is niet, zoals vermeld in *Trb.* 2008, 54, in werking getreden op 13 januari 2008, maar op 6 december 2007.

De bepalingen van de Overeenkomst zullen ingevolge artikel 32, derde lid, op 23 juni 2009 in werking treden.

Het Verdrag zal ingevolge artikel 32, derde lid, voor het *Koninkrijk der Nederlanden* op 23 juni 2009 in werking treden.

Wat betreft het Koninkrijk der Nederlanden, zal het Verdrag alleen voor Nederland gelden.

J. VERWIJZINGEN

Zie *Trb.* 1998, 174, *Trb.* 2006, 129 en *Trb.* 2008, 54.

Verbanden

Titel : Overeenkomst tussen België, de Bondsrepubliek Duitsland, Frankrijk, Italië, Luxemburg en Nederland inzake wederzijdse bijstand tussen de onderscheiden douane-administraties;
Rome, 7 september 1967

Laatste *Trb.* : *Trb.* 2009, 95

Titel : Protocol betreffende de toetreding van Griekenland tot de tussen de Lid-Staten van de Europese Economische Gemeenschap gesloten Overeenkomst inzake wederzijdse bijstand tussen de douane-administraties;
Rome, 7 september 1967

Laatste *Trb.* : *Trb.* 2009, 96

Overige verwijzingen

Titel : Verdrag tot oprichting van de Europese Gemeenschap;
Rome, 25 maart 1957

Laatste *Trb.* : *Trb.* 2008, 51

Titel : Verdrag tot oprichting van de Europese Gemeenschap voor Atoomenergie (EURATOM);
Rome, 25 maart 1957

Laatste *Trb.* : *Trb.* 2008, 52

Titel : Verdrag betreffende de Europese Unie;
Maastricht, 7 februari 1992
Laatste *Trb.* : *Trb.* 2008, 53

Uitgegeven de tweeëntwintigste juni 2009.

De Minister van Buitenlandse Zaken,

M. J. M. VERHAGEN