



Miscellaneous Series No. 4 (2020)

Agreement

between the Government of the French Republic, the Government of the Kingdom of Belgium, the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland amending and supplementing the Agreement between the Government of the Kingdom of Belgium, the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland, concerning Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link with Protocol, done at Brussels on 15 December 1993

Brussels, 7 July 2020

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
August 2020*



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AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC, THE GOVERNMENT OF THE KINGDOM OF BELGIUM, THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AMENDING AND SUPPLEMENTING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM, THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, CONCERNING RAIL TRAFFIC BETWEEN BELGIUM AND THE UNITED KINGDOM USING THE CHANNEL FIXED LINK WITH PROTOCOL, DONE AT BRUSSELS ON 15 DECEMBER 1993

THE GOVERNMENT OF THE FRENCH REPUBLIC,

THE GOVERNMENT OF THE KINGDOM OF BELGIUM,

THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS

AND

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

HEREINAFTER JOINTLY REFERRED TO AS “THE CONTRACTING PARTIES” AND EACH INDIVIDUALLY AS “A CONTRACTING PARTY”,

CONSIDERING that it is necessary to facilitate rail traffic between the Contracting Parties’ territories which uses the Channel Fixed Link,

HAVING REGARD to the Protocol between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic concerning frontier controls and policing, co-operation in criminal justice, public safety and mutual assistance relating to the Channel Fixed Link, done at Sangatte on 25 November 1991, hereinafter referred to as the “Sangatte Protocol”,

HAVING REGARD to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the Kingdom of Belgium and the Government of the French Republic concerning rail traffic between Belgium and the United Kingdom using the Channel Fixed Link with Protocol, done at Brussels on 15 December 1993, hereinafter referred to as the “1993 Agreement”, including the preamble to the Agreement,

HAVING REGARD to the Additional Protocol to the Sangatte Protocol between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic on the establishment of Bureaux responsible for controls on persons travelling by train between the United Kingdom and France, done at Brussels on 29 May 2000,

HAVING REGARD to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium, concerning Immigration Controls on Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link, done at London on 3 December 2013 and Brussels on 18 December 2013,

HAVING REGARD, for those Contracting Parties bound by the same, to:

- Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast),
- Regulation (EU) No 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders, hereinafter referred to as the “Schengen Borders Code”,
- Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data,
- Directive (EU) No 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA,

The Government of the United Kingdom of Great Britain and Northern Ireland having regard to its national legislation on the processing of information relating to individuals,

DESIRING to amend the 1993 Agreement to apply to rail traffic across the territory of the Contracting Parties which apply the Schengen acquis in full to the extent set out within this Agreement, so far as the States in which such traffic is to take place are signatories to this Agreement either at the date of ratification or at a later date,

HAVE AGREED AS FOLLOWS:

PART I
EXTENSION OF THE 1993 AGREEMENT

ARTICLE 1

- (1) In accordance with Article 25 of the 1993 Agreement, the Contracting Parties of the 1993 Agreement and its Protocol decide jointly that the 1993 Agreement and its Protocol shall be amended and supplemented by the present Agreement and its Protocol.
- (2) The 1993 Agreement and its Protocol shall apply, as amended and supplemented by this Agreement and its Protocol, to all the Contracting Parties to this Agreement.
- (3) With respect to the Kingdom of the Netherlands this Agreement and its Protocol shall apply to the European part of the Netherlands only.

PART II
AMENDMENTS TO THE 1993 AGREEMENT

ARTICLE 2

Article 1 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) After paragraph (1), insert

“(1A) “Border controls on persons” means controls carried out to ensure that persons may be authorised to enter or leave the territory of the United Kingdom or the Schengen Area in accordance with the national legislation of the relevant Contracting Party or the Schengen Borders Code, as applicable.”
- (2) For paragraph (3), substitute:

““Trains” means trains travelling between the territory of two or more Contracting Parties using the Fixed Link, other than those commencing or terminating in France.”
- (3) Omit paragraph (4).
- (4) In paragraph (5), after Article 3(2), insert “and are assigned in accordance with their national law.”
- (5) For paragraph (6), substitute:

““Control zone” means that part of the territory of the Host State and the trains within which the officers of another State are empowered to effect controls, as defined by mutual agreement between the Host State and the State whose officers will be operating in the said zone.”
- (6) For paragraph (7) substitute:

““Host State” means the State in whose territory the controls of one or more other Contracting Parties are effected or where the officers of those Contracting Parties are present.”
- (7) After paragraph (7), insert:

“(8) “State of arrival” means the State in whose territory a train makes its first commercial stop after using the Fixed Link.

- (9) “State of departure” means the State in whose territory a train commences its journey with the intention of using the Fixed Link.
- (10) “Commercial stop” means a stop by a train scheduled in the operator’s timetable for the purpose of embarking or disembarking passengers.
- (11) “Operator” means a rail carrier providing a scheduled high-speed international railway service via the Fixed Link.
- (12) “Schengen Area” means the territory of the Contracting Parties which apply the Schengen acquis in full.
- (13) “Security” consists of the measures taken to reduce the risks and mitigate the consequences of hostile acts against the Fixed Link and the persons, property and trains bound for or present within it.”

ARTICLE 3

For Article 2 of the 1993 Agreement, substitute:

- “(1) This Agreement shall apply to rail traffic between the Contracting Parties in either direction, travelling via the Fixed Link, which passes through France but does not commence or terminate there.
- (2) Security matters relating to trains shall be the subject of special arrangements between the Contracting Parties, without prejudice to the provisions of this Agreement.
- (3) A Protocol concerning the organisation of frontier controls in the control zones is annexed to this Agreement and shall form an integral part thereof.
- (4) As far as concerns border controls on persons, this Agreement shall not apply to journeys where the State of departure and the final destination of the passenger are both stated to be within the Schengen Area.”

ARTICLE 4

Article 3 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) For “Governments” substitute “Contracting Parties” wherever occurring;
- (2) In paragraph (3), delete “Tripartite.”

ARTICLE 5

For Article 4 of the 1993 Agreement, substitute:

- “(1) On board trains, officers of the Contracting Parties may exercise frontier controls in the territory of another Contracting Party, provided the latter has been informed of this in advance and has agreed.
- (2) Any such controls may only take place to the extent permitted by the national law of the Contracting Party in whose territory they take place. If national law prohibits or limits the conduct of such controls, the Contracting Party shall make this clear when agreeing or declining permission under paragraph (1) above.”

ARTICLE 6

For Article 5 of the 1993 Agreement, substitute:

- “(1) As far as concerns border controls on persons and in the case of Contracting Parties which apply the Schengen acquis in full:
 - (a) The Contracting Party in whose territory the first commercial stop in the Schengen Area is scheduled shall be responsible for the applicable entry controls.
 - (b) The Contracting Party in whose territory a passenger embarks shall be responsible for exit controls on departure from the Schengen Area.
- (2) A Contracting Party that applies the Schengen acquis in full and is responsible for border controls on persons under paragraph (1) above may effect them jointly with another Contracting Party that applies the Schengen acquis in full, or arrange for them to be effected by another Contracting Party that applies the Schengen acquis in full, in accordance with the rules of the Schengen Borders Code.
- (3) In the case of a Contracting Party that applies the Schengen acquis in full, border controls on persons shall be effected in accordance with the detailed rules laid down in the Schengen Borders Code.
- (4) In the case of a Contracting Party that does not apply the Schengen acquis in full, border controls on persons shall be governed by its national legislation.”

ARTICLE 7

For Article 6 of the 1993 Agreement, substitute:

“Each Contracting Party shall retain the right to effect police and customs checks on board trains whilst those trains are travelling through their territory.”

ARTICLE 8

For Article 7 of the 1993 Agreement, substitute:

“In the event of a train stopping unexpectedly, passengers leaving the train shall be required, if necessary, to submit to frontier controls by the Authorities of the Contracting Party where the stop takes place.”

ARTICLE 9

For Article 8 of the 1993 Agreement, substitute:

- “(1) Each Contracting Party shall be responsible for the payment or recovery of the costs of the controls for which it is responsible according to this Agreement.
- (2) Each Contracting Party has the right to recover, from an Operator or other third party, the costs of its own controls.
- (3) Any such recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.”

ARTICLE 10

For Article 9 of the 1993 Agreement, substitute:

“Officers shall be authorised to circulate freely over the whole of the network for official purposes related to this Agreement simply by producing appropriate evidence of their identity and status. While doing so, they may wear their national uniform or other distinctive insignia in the Host State.”

ARTICLE 11

Article 10 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- “(1) For “the other States” substitute “the other Contracting Parties”;
- (2) At the end of the Article, insert “The Contracting Party receiving such a request shall comply with the same.”

ARTICLE 12

For Article 11 of the 1993 Agreement, substitute:

- “(1) Policing matters relating to the rail traffic referred to in paragraph (1) of Article 2 and the combatting of terrorism, organised crime, migrant smuggling and human trafficking may be the subject of special bilateral or multilateral arrangements between all or some of the Contracting Parties, without prejudice to the provisions of this Agreement. Any such arrangements existing at the date this Agreement enters into force shall not be superseded by the provisions of this Agreement and shall continue in effect without modification.
- (2) For the purposes set out in paragraph (1) above, the Contracting Parties may also agree, between all or some of them, on other forms of collaboration by their officers, especially within control zones and on board trains. Any such agreement is to be recorded in writing and notified to all affected Contracting Parties.”

ARTICLE 13

For Article 12 of the 1993 Agreement, substitute:

- “(1) In connection with the duties performed by officers of a Contracting Party pursuant to their national law on the network used by trains but within their own territory, such officers shall be authorised to board trains within the territory of another Contracting Party or to disembark therefrom when they have completed their duties, provided that such travel within foreign territory has been notified to the competent authorities of the Host State before the officers leave their national territory.
- (2) Without prejudice to paragraph (4) of this Article, while in the territory of another Contracting Party such officers have no powers under this Agreement to continue or commence their duties pursuant to their national law.

- (3) During their presence in the territory of the Host State pursuant to paragraph (1), officers of the other Contracting Parties shall wear their national uniform or other distinctive insignia unless the nature of the duties in their national territory requires otherwise. Without prejudice to the provisions of Article 12A of this Agreement, they shall be allowed to wear and carry in the Host State such service weapons, ammunition and equipment as agreed with the Host State.
- (4) Where officers from one Contracting Party have arrested an individual or seized an object on board a train within their own national territory and it is then necessary, for practical reasons, to cross the frontier, such arrest or seizure shall remain lawful in the territory of the Host State. The competent authorities of the Host State shall be informed of any such situation without delay. If an officer is not wearing uniform when arresting persons or seizing goods within their own national territory, they must make themselves identifiable as an officer at the time they cross the frontier into Host State territory, or as soon as possible thereafter, by wearing national uniform or other visible distinctive insignia or otherwise taking appropriate steps to be visibly identified as an officer.
- (5) Following the eventuality set out in paragraph (4) above, unless agreement to the contrary is reached with the Host State or the Contracting Party deemed to have jurisdiction under Article 15, those Officers shall, as soon as is practicable, return to their national territory with the arrested individual and/or any seized objects.”

ARTICLE 14

After Article 12 of the 1993 Agreement, insert:

“ARTICLE 12A

- (1) Any service weapons or ammunition may only be carried in a Host State subject to separate arrangements being entered into between the relevant Contracting Parties. Any such arrangement shall be notified to all Contracting Parties that are not party to it by the date that it enters into force.
- (2) Each Contracting Party shall additionally notify the others of all existing arrangements permitting the carriage of service weapons or ammunition in a Host State to which they are party, by the date on which this Agreement comes into force. These existing arrangements shall not be superseded by the provisions of this Agreement and shall continue in effect without modification.”

ARTICLE 15

In Article 13 of the 1993 Agreement, replace the words “Article 11” with “Article 15”.

ARTICLE 16

Article 14 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) In paragraph (1) before “homicide” insert “terrorist acts, ”,
- (2) In paragraph (2),
 - (a) delete the words “when the train arrives,”;
 - (b) replace the words “Article 11” with “Article 15.”

ARTICLE 17

For Article 15 of the 1993 Agreement, substitute:

- “(1) Without prejudice to the other provisions laid down by the Contracting Parties in this Agreement or pursuant to Articles 4 and 14(2) of the Protocol attached as an annex to this Agreement, when an offence is committed on board a train in the territory of one of the Contracting Parties, including within the Fixed Link up to that Contracting Party’s frontier, that Contracting Party shall have jurisdiction.
- (2) If it cannot be ascertained where an offence has been committed, the Contracting Party in whose territory the train makes its first subsequent commercial stop shall have jurisdiction.
- (3) A person lawfully detained under Articles 4, 13 or 14(2) of this Agreement may be transferred to the territory of the Contracting Party that has jurisdiction.”

ARTICLE 18

After Article 15 of the 1993 Agreement, insert:

“ARTICLE 15A

Nothing in Article 15 above, or any other provision of this Agreement, shall be deemed to exclude the jurisdiction of any Contracting Party in respect of

offences carried out in their national territory or in respect of such offences that have, by virtue of national legislation or otherwise, extra-territorial effect.

ARTICLE 15B

- (1) Officers of a Contracting Party who are on board a train on the basis of a provision of this Agreement may, in the territory of another Contracting Party, without prior consent but in compliance with the national law of that Contracting Party regarding the right of persons other than police officers to effect an arrest, hold a person until the arrival of that Contracting Party's officers, but only to the extent permitted by that Contracting Party's national law.
- (2) When they intervene on the basis of paragraph (1), the officers must call the competent authority of the Host State immediately.
- (3) This Article is without prejudice to other international agreements binding the Contracting Parties, or some of them, which contain provisions of wider application regarding the intervention of officers of other States on board a train."

ARTICLE 19

Article 16 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) Before Article 16, in the heading, delete "Tripartite" before "Intergovernmental Committee."
- (2) In paragraph (1), replace "A Tripartite" with "An."
- (3) Delete "three" before "Contracting Parties."

ARTICLE 20

Article 17 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) In paragraph (1), replace "Belgium and the United Kingdom" with "the Contracting Parties using the Fixed Link."
- (2) In paragraph (2), replace "trilateral" with "multilateral."
- (3) For paragraph (3), substitute:

“The Intergovernmental Committee shall assure itself that the authorities designated in accordance with Article 3(1) of this Agreement consult and act jointly, save in exceptional circumstances.”

ARTICLE 21

Article 18 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) for “fifteen” substitute “sixteen”;
- (2) for “third” substitute “quarter.”

ARTICLE 22

Article 19 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) delete “three” before “delegations”;
- (2) delete “French, British and Belgian.”

ARTICLE 23

After Article 19, before Part V, insert:

“ARTICLE 19A

On the accession of another State to this Agreement, the maximum number of members of the Intergovernmental Committee shall, on each occasion, be extended in number by four. Each government shall appoint an equal percentage of the members of the Intergovernmental Committee.”

ARTICLE 24

Article 20 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) In the heading of the Article, omit the word “three”; and
- (2) in paragraph (c), for “two Parties” substitute “Contracting Parties.”

ARTICLE 25

After Article 23 of the 1993 Agreement, insert:

“ARTICLE 23A

Officers of a State, when acting in pursuance of this Agreement, shall be subject at all times to the applicable legislation in relation to the processing of personal data in the exercise of their functions.

ARTICLE 23B

- (1) Without prejudice to the other provisions laid down by the Contracting Parties in this Agreement or the Protocol hereto, when a person submits a request for refugee status or any other kind of protection provided for by international law or in the national law of the State of departure during a control carried out at the station of the State of departure by the officers of the State of arrival, this request shall be examined by the authorities of the State of departure in accordance with the rules and procedures of its national law.
- (2) The same provision shall be applicable when the request is submitted after the person has passed through this control and before the train doors close at the last scheduled stop at a station located in the territory of the State of departure. If such a request is made after the train doors have closed, it shall be processed by the authorities of the State of arrival in accordance with the rules and procedures of its national law.”

ARTICLE 26

Article 24 of the 1993 Agreement is amended as follows:

- (1) Replace “In addition to the arrangements provided for under Article 20, the procedures for the” with “The”; and
- (2) For “the competent authorities of the three States” substitute “the Contracting Parties or their competent authorities.”

ARTICLE 27

After Article 24 of the 1993 Agreement, insert:

“ARTICLE 24A

The Government of the Kingdom of Belgium shall be the Depositary of this Agreement and its Protocol.”

ARTICLE 28

Article 25 of the 1993 Agreement is amended in accordance with the provisions of this Article:

- (1) In paragraph (1), replace “Protocol in order to adapt them to new circumstances or needs. It may send a proposal for an amendment to the depositary. The depositary shall transmit that proposal to the other Contracting Parties” with “Protocol”;
- (2) In paragraph (2),
 - (a) after “following ratification”, insert “, acceptance”;
 - (b) delete “three”;
 - (c) replace “their respective constitutional rules” with “Article 28.”

ARTICLE 29

In Article 26 of the 1993 Agreement, for “three Governments”, substitute “Contracting Parties.”

ARTICLE 30

For Article 27 of the 1993 Agreement, substitute:

- “(1) In the event that any future legislative changes render one or more of the provisions of this Agreement or its Protocol incompatible with the law of the European Union, the Contracting Parties shall amend or replace the relevant provisions by using the procedure set out in Article 25.
- (2) The Contracting Parties shall decide by entering into negotiations on how to proceed in the event of a Contracting Party modifying its position as to its application of the Schengen acquis in full.”

ARTICLE 31

After Article 27 of the 1993 Agreement, insert:

“ARTICLE 27A

- (1) After the entry into force of this Agreement and its Protocol, and upon invitation of the Contracting Parties, any State that applies the Schengen acquis in full may accede to this Agreement and its Protocol, on the condition that it simultaneously accedes to the Special Arrangement on Security Matters.
- (2) The invitation to accede to the treaties as mentioned in paragraph (1) shall be sent by the Depositary on behalf of the Contracting Parties.
- (3) The accession of any State to this Agreement and its Protocol shall be effected by the deposit of an instrument of accession with the Depositary, which shall take effect on the first day of the second month after the date of its deposit. The Depositary shall inform the Contracting Parties of the date of deposit of the instruments of accession and of the date of the entry into force of this Agreement and its Protocol with regard to the acceding State.
- (4) Accession to this Agreement and its Protocol shall not preclude a State from making additional agreements with one or more Contracting Parties in respect of the provision of frontier controls and policing. Where appropriate, such additional agreements shall be brought to the attention of the other Contracting Parties prior to their signature and those Contracting Parties shall be given the opportunity to make observations on the contents of these additional Agreements.

ARTICLE 27B

- (1) Each Contracting Party may suspend this Agreement and its Protocol after written notification to the Depositary. This notification shall include the reasons for the suspension. The Depositary shall notify the Contracting Parties of the notification to suspend the Agreement and its Protocol.
- (2) Suspension shall take effect on the first day following the expiry of a six month period following the date upon which the notification is received by the Depositary, unless the Contracting Parties mutually agree for the suspension to take effect sooner.
- (3) In case of suspension by one or more Contracting Parties pursuant to paragraph (1), this Agreement and its Protocol shall continue to have effect in respect of the remaining Contracting Parties. Nevertheless, if a

Contracting Party has sent a notification to the Depositary in order to suspend this Agreement and its Protocol in accordance with paragraph (1), and if within a period of two months after the date upon which the Depositary has received this notification another Contracting Party notifies the Depositary that in response to this suspension it shall also suspend this Agreement and its Protocol, then the latter Contracting Party may suspend this Agreement and its Protocol with effect from the same date as the former Contracting Party.

- (4) If a Contracting Party has sent a notification to the Depositary in order to suspend this Agreement and its Protocol in accordance with paragraph (1), then the Contracting Parties shall convene as soon as possible, but in any event no later than six weeks after the date upon which the Depositary has received this notification, in order to determine the consequences of this suspension.
- (5) The suspension of this Agreement and its Protocol may cease after written notification to the Depositary. The Depositary shall notify the Contracting Parties of the notification to cease the suspension. The cessation of the suspension of the Agreement and its Protocol shall take effect on the date agreed upon by the Contracting Parties after negotiation through diplomatic channels.

ARTICLE 27C

- (1) This Agreement and its Protocol may be terminated at any time by consent of all the Contracting Parties.
- (2) Each Contracting Party may withdraw from this Agreement and its Protocol by giving no less than six months' notice in advance to the Depositary. The Depositary shall notify the Contracting Parties of the notification to withdraw from the Agreement and its Protocol.
- (3) Withdrawal from this Agreement and its Protocol shall take effect on the first day following the expiry of a six month period following the date upon which the notification is received, unless the Contracting Parties mutually agree for the withdrawal to take effect sooner.
- (4) In the case that one or more Contracting Parties withdraw from this Agreement and its Protocol pursuant to paragraph (2), the Agreement and its Protocol shall continue to have effect in respect of the remaining Contracting Parties. Nevertheless, if a Contracting Party has sent a notification to the Depositary in order to withdraw from this Agreement and its Protocol in accordance with paragraph (2), and if within a period of two months after the date upon which the Depositary has received this notification another Contracting Party notifies the Depositary that in response to this withdrawal it shall also withdraw from this Agreement

and its Protocol, then the withdrawal from this Agreement and its Protocol in regard to the latter Contracting Party shall take effect on the same date as the withdrawal from this Agreement and its Protocol in regard to the former Contracting Party.

- (5) If a Contracting Party has sent a notification to the Depositary in order to withdraw from this Agreement and its Protocol in accordance with paragraph (2), then the Contracting Parties shall convene as soon as possible, but in any event no later than six weeks after the date upon which the Depositary has received this notification, in order to determine the consequences of this withdrawal.”

ARTICLE 32

For the Protocol to the 1993 Agreement, substitute the Protocol to this Agreement.

PART III
FINAL CLAUSES

ARTICLE 33

(1) This Agreement and its Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Kingdom of Belgium to be archived there. The Depositary shall notify the Contracting Parties of the date of the deposit of these instruments.

(2) The Agreement and its Protocol shall enter into force on the first day of the second month following the deposit of the last instrument of ratification, acceptance or approval. The Depositary shall inform the Contracting Parties of the date of entry into force, and shall provide each Contracting Party with a certified true copy of the original.

ARTICLE 34

Any Contracting Party may, at the time of its signature, deposit a declaration that it shall provisionally apply this Agreement and its Protocol, in full or limited to certain provisions, pending their entry into force, in accordance with Article 33. The Depositary shall notify the Contracting Parties of such declaration.

IN WITNESS WHEREOF, the respective plenipotentiaries, duly authorised thereto by their Governments, have signed this Agreement.

DONE in a single original at Brussels on 7 July 2020 in the English, French and Dutch languages, all three texts being equally authoritative.

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:

HÉLÈNE FARNAUD-DEFROMONT,

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM:

MAGGIE DE BLOCK

PIETER DE CREM

**FOR THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS:
STIENTJE VAN VELDHOVEN-VAN DER MEER**

**FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND:**

MARTIN JAMES SHEARMAN CVO

PROTOCOL CONCERNING THE ORGANISATION OF FRONTIER CONTROLS IN THE CONTROL ZONES

ARTICLE 1

This Protocol shall apply to rail traffic between the Contracting Parties in either direction travelling via the Fixed Link, which passes through France but does not commence or terminate there.

ARTICLE 2

(1) The laws in force of the Host State shall apply at all times in the control zone. Without prejudice to the application of the provisions of Article 18, officers of the Host State have the right to circulate and intervene at any moment within the control zone in order to perform their competences attributed by national law.

(2) When performing frontier controls in the Host State, the officers of one Contracting Party shall apply the laws and regulations relating to frontier controls in their State and put them into effect in the control zone situated in the Host State in the same way as in their own territory, under the procedure and modalities as defined in Article 3.

ARTICLE 3

(1) Each Contracting Party shall, at the time of signing this Agreement, set out in a written declaration which of the following procedures and modalities 3(1)(a) or 3(1)(b) shall apply to the control zones situated in their territory, in their capacity as Host State:

- (a) The officers of the other States shall, in exercise of their national powers, be permitted in the control zone situated in the Host State to detain or arrest persons in accordance with the laws and regulations relating to frontier controls of their own State or persons sought by the authorities of their own State. Any person arrested or detained shall be handed over immediately, along with any seized goods, to the competent authorities of the Host State. The Host State shall ensure that the competent authorities are available to receive such a person and to take the necessary measures.

The State whose officers have made the detention or arrest shall, should they wish to transfer the individual in question to their own territory, follow the relevant applicable procedure for making a formal request for such a transfer from the Host State.

However, no person may be held for more than 24 hours in the areas reserved for frontier controls in the Host State. Any such detention shall

be subject to the requirements and procedures laid down by the legislation of the State of the officers who have made the detention or arrest.

Or

- (b) The officers of the other States shall, in exercise of their national powers, only be permitted in the control zone situated in the Host State to detain or arrest persons for criminal offences during the execution of a border control on persons in accordance with the laws and regulations relating to frontier controls of their own State or persons sought by the authorities of their own State, as follows:
 - (i) No arrest or detention may be made for a criminal offence for which there is no comparable criminal offence under the domestic legislation of the Host State, such offences to be agreed and set out in a separate bilateral agreement between the Host State and the State of arrival, to be signed at the same time as the written statement to which this Article applies.
 - (ii) While performing the controls envisaged in Article 2, the officers of the State of arrival may require a person to submit to further examination in order to ensure that such a person may be authorised to enter the territory of the State of arrival. Persons required to submit to further examination may bring this examination to an end at any time by discontinuing their wish to enter the territory of the State of arrival. In such a case the person shall be escorted to the officers of the Host State who shall take the necessary measures to submit the person to frontier controls.
 - (iii) Any person arrested or detained shall be handed over immediately, along with any seized goods, to the competent authorities of the Host State. The Host State shall ensure that the competent authorities are available to receive such a person and to take the necessary measures.

(2) Each Contracting Party shall then provide to every other Contracting Party a copy of that declaration, irrespective of whether that other Contracting Party is intending to carry out frontier controls in Host State territory.

(3) A Contracting Party may at any time, in agreement with the relevant State(s) of arrival, replace its written declaration on the modality to be operated according to paragraph (1) of this Article. All Contracting Parties shall consult one another to establish a practical way to accommodate such a modification. This declaration shall take effect on the first day of the sixth month following the day on which all Contracting Parties were in receipt of its notification, pursuant to the requirement under paragraph (2) above.

ARTICLE 4

Without prejudice to the law of the Host State, breaches of the laws and regulations relating to frontier controls of the other Contracting Parties which are detected in the control zone situated in the Host State shall be subject to the laws and regulations of those other States, as if the breaches had occurred in the territory of the latter.

ARTICLE 5

(1) The frontier controls of the State of departure shall normally be effected before those of the State of arrival.

(2) The officers of the State of arrival are not authorised to begin to carry out such controls before the end of the controls of the State of departure. Any form of relinquishment of such controls shall be considered as a control.

(3) The officers of the State of departure may no longer carry out their controls when the officers of the State of arrival have begun their own operations, except with the consent of the competent officers of the State of arrival.

(4) If exceptionally, in the course of the frontier controls, the sequence of operations provided for in paragraph (1) of this Article is modified, the officers of the State of arrival may not proceed to detentions, arrests or seizures until the frontier controls of the State of departure are completed. In such a case, these officers shall escort the persons, vehicles, merchandise, animals or other goods, for which the frontier controls of the State of departure are not yet completed, to the officers of that State. If these latter then wish to proceed to detentions, arrests or seizures, they shall have priority.

ARTICLE 6

If the State of arrival refuses admission to persons, vehicles, animals or goods, or if persons refuse to submit to the frontier controls of the State of arrival, or send or take back any vehicles, animals or goods which are accompanying them, the authorities of the State of departure may not refuse to take back such persons, vehicles, animals or goods. However, the authorities of the State of departure may take any measures to deal with them in accordance with the law applicable in that State and in a way which does not impose obligations either on the State of transit or on the State of arrival.

ARTICLE 7

- (1) The provisions of this Protocol concerning the methods of exercise of juxtaposed frontier controls, particularly any extension or reduction of their field of application, may be modified by mutual agreement between the Governments by way of arrangements which shall be confirmed by Exchange of Diplomatic Notes.
- (2) In an emergency, the local representatives of the authorities concerned may by mutual agreement provisionally bring into effect alterations to the delimitation of the control zones which may prove necessary. Any arrangements so reached shall come into effect immediately.

ARTICLE 8

Frontier controls on persons for the purpose of safeguarding public health shall be carried out in the control zone situated in the Host State by the competent authorities of the State of arrival in conformity with the regulations applicable in that State.

ARTICLE 9

Where there is information giving rise to suspicion of an infringement, controls may be carried out on animals, animal products, plants, plant products and foodstuffs for human or animal consumption.

The bringing into the State of arrival of pets which travellers take with them for non-profit purposes may be subject to controls in compliance with the current regulations.

ARTICLE 10

- (1) The controls referred to in Article 9 shall include:
 - (a) inspection of certificates or accompanying documents, termed documentary inspection;
 - (b) physical examination, including where necessary the taking of samples;
 - (c) inspection of means of transport.
- (2) Such controls may be limited to documentary inspection, while physical examination may be undertaken as considered necessary.

ARTICLE 11

Veterinary inspection of living animals shall be without prejudice to any subsequent quarantine measures which may be imposed by the importing State.

ARTICLE 12

Officers of the other States may wear their national uniform or visible distinctive insignia in the Host State.

ARTICLE 13

(1) The authorities of the Host State shall grant the same protection and assistance to officers of the other States, in the exercise of their functions, as they grant to their own officers.

(2) The provisions of the criminal law in force in the Host State for the protection of officers in the exercise of their functions shall be equally applicable to the punishment of offences committed against officers of the other States in the exercise of their functions.

ARTICLE 14

(1) Without prejudice to the application of the provisions of Article 23 of the Agreement, claims for compensation for loss, injury or damage caused by or to officers of the other States in the exercise of their functions in the Host State shall be subject to the law and jurisdiction of the State to which those officers belong as if the circumstance giving rise to the claim had occurred in that State.

(2) Officers of the other States may not be prosecuted by authorities of the Host State for any acts performed in the control zone whilst in the exercise of their functions. In such a case, they shall come under the jurisdiction of their own State as if the act had been committed in that State.

(3) The judicial authorities or police of the Host State who take steps to record the complaint and assemble the facts relating thereto shall communicate all the particulars and evidence thereof to the competent authorities of the State to which the accused officer belongs for the purposes of a possible prosecution according to the laws in force in that State.

ARTICLE 15

- (1) Officers of the other States shall be permitted freely to transfer to their own States sums of money levied on behalf of their Governments in the control zone situated in the Host State, as well as merchandise and other goods seized there.
- (2) They may equally sell such merchandise and other goods in the Host State in conformity with the provisions in force in the Host State and transfer the proceeds to their own State.

ARTICLE 16

The competent authorities of each Contracting Party shall, in consultation with one another, determine their respective requirements for accommodation, installations and equipment. Where these requirements are to be satisfied by other parties, they shall be notified to them, where appropriate, through the Intergovernmental Committee.

ARTICLE 17

- (1) The authorities of each Contracting Party shall use their best endeavours to ensure that the authorities of the other Party are able to make use in the Host State of the accommodation, installations and equipment necessary for the performance of their functions.
- (2) The Host State has the right to provide for an Operator or third party to make available the accommodation, installations and equipment necessary for the performance of the other Contracting Parties' functions, and similarly has the right to recover the costs of such provision from an Operator or other third party. Any such provision or recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.

ARTICLE 18

- (1) The officers of the other States are empowered to keep order within the accommodation appointed for their exclusive use in the Host State.
- (2) The officers of the Host State shall not have access to such accommodation, except at the request of the officers of the State concerned or in accordance with the laws of the Host State applicable to entry into and searches of private premises.

ARTICLE 19

All goods which are necessary to enable the officers of the other States to carry out their functions in the Host State shall be exempt from all taxes, duties and fees on entry and exit.

ARTICLE 20

- (1) The officers of the other States whilst exercising their functions in the Host State shall be authorised to communicate with their national authorities.
- (2) For this purpose, the authorities of the Host State shall endeavour to meet the requests of the authorities of the other States relating to communications facilities necessary for the performance of their functions and shall define their conditions of use.
- (3) The Host State has the right to provide for an Operator or third party to make available the accommodation, installations and equipment necessary for the performance of the other Contracting Parties' functions, and similarly has the right to recover the costs of such provision from an Operator or other third party. Any such provision or recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.

**DECLARATION BY THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND**

The Government of the United Kingdom of Great Britain and Northern Ireland

RECALLING the Agreement between the Government of the French Republic, the Government of the Kingdom of Belgium, the Government of the Kingdom of The Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland amending and supplementing the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the Kingdom of Belgium and the Government of the French Republic concerning Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link with Protocol, done at Brussels on 15 December 1993 (the “**Agreement**”);

RECALLING that Article 3(1) of the Protocol to the Agreement requires each Contracting Party, at the time of signing the Agreement, to set out in a written declaration the procedures and modalities that shall apply in the control zones situated in their territory, in their capacity as Host State;

HEREBY DECLARES

The United Kingdom shall apply the procedures and modalities set out in Article 3(1)(a) of the Protocol to the Agreement to the control zones situated in the territory of the United Kingdom in its capacity as Host State.

IN WITNESS WHEREOF this Declaration is signed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland by Martin James Shearman CVO, Her Majesty’s Ambassador to the Kingdom of Belgium.

DONE at Brussels on 7 July 2020.

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