



Treaty Series No. 23 (1998)

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

Brussels, 15 December 1993

[The United Kingdom Instrument of ratification was deposited on 25 August 1994 and the Agreement entered into force on 1 December 1997]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1998*

**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**

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 hereinafter referred to as the Contracting Parties,

Having regard to the Treaty between the French Republic and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, done at Canterbury on 12 February 1986, which entered into force on 29 July 1987¹;

Having regard to the Protocol between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Frontier Controls and Policing, Co-operation in Criminal Justice, Public Safety and Mutual Assistance, done at Sangatte on 25 November 1991, which entered into force on 2 August 1993²;

Having regard to the Convention between the French Republic and the Kingdom of Belgium on controls at the Franco-Belgian frontier and at joint and interchange stations, signed at Brussels on 30 March 1962;

Having regard to the Convention applying the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, done at Schengen on 19 June 1990;

Having regard to the Treaties establishing the European Communities³;

Considering that it is necessary to facilitate rail traffic between Belgium and the United Kingdom which uses the Channel Fixed Link and crosses French territory without making a commercial stop;

Desiring to deal with all the problems arising in this regard in connection with security, frontier controls, policing, co-operation in criminal justice, public safety and mutual assistance in the territories of the three States concerned;

¹ Treaty Series No. 15 (1992) Cm 1827.

² Treaty Series No. 70 (1993) Cm 2366.

³ Treaty Series No. 47 (1988) Cm 455.

Have agreed as follows:

PART 1

General Provisions

ARTICLE 1

Definitions

- (1) "Frontier controls" means police, immigration, customs, health, veterinary and phytosanitary, consumer protection, and transport controls, as well as any other controls provided for in national or European Community laws and regulations.
- (2) "Fixed Link" means the Channel Fixed Link defined in Article 1 of the Treaty done at Canterbury on 12 February 1986.
- (3) "Trains" means international trains travelling between Belgian and British territory, using the Fixed Link and passing through French territory.
- (4) "Non-stop trains" means international trains travelling between Belgian and British territory, using the Fixed Link and crossing French territory without making a commercial stop, except for technical stops.
- (5) "Officers" means persons responsible for policing and frontier controls who are under the command of the persons or authorities designated in accordance with Article 3(2).
- (6) "Control Zone" means that part of the territory of the host State and the non-stop trains, within which the officers of the other States are empowered to effect controls. Each control zone shall be defined by mutual agreement between the host State and the State whose officers will be operating in the said zone; however, in the case of non-stop trains, the control zone in French territory shall be determined jointly by the three Governments.
- (7) "Host State" means the State in whose territory the controls of the other States are effected.

ARTICLE 2

Scope

- (1) This Agreement shall apply to rail traffic between the United Kingdom and Belgium travelling via the Fixed Link and passing through French territory.
- (2) Security matters relating to the rail traffic referred to in the preceding paragraph shall be the subject of special arrangements between the three Governments, without prejudice to the provisions of this Agreement.
- (3) A Protocol concerning frontier controls and policing on non-stop trains between the United Kingdom and Belgium via the Fixed Link is attached as an annex to this Agreement and shall form an integral part thereof.

PART II

Authorities and General Principles of Co-operation

ARTICLE 3

- (1) Each of the Governments shall designate the authorities or persons who in its territory are empowered to take decisions relating to the security of the trains.
- (2) Each of the Governments shall designate the authorities or persons having charge of the services which in its territory have responsibility for the exercise of frontier controls and the maintenance of law and order.
- (3) Each of the Governments shall notify the other Governments of such designations and any changes therein, and shall so inform the Tripartite Intergovernmental Committee.

ARTICLE 4

On non-stop trains, British officers may exercise frontier controls in Belgian and French territory, and Belgian officers in British and French territory.

ARTICLE 5

It is agreed that the frontier controls relating to non-stop trains shall in principle be effected under the exclusive responsibility of the British and Belgian authorities.

ARTICLE 6

French officers shall retain the right to effect occasional police and customs checks during the passage of the non-stop trains through French territory.

ARTICLE 7

In the event of a train stopping unexpectedly in French territory, passengers leaving the train will be required to submit to entry control by the French authorities.

ARTICLE 8

Each Government shall be responsible for the payment or recovery of the costs of its own controls.

ARTICLE 9

The officers of the three States shall be authorised to circulate freely over the whole of the route between London and Brussels for official purposes simply by producing appropriate evidence of their identity and status.

ARTICLE 10

The authorities of the host State reserve the right to request the authorities of the other States to recall any of their officers.

PART III

Co-operation in Criminal Justice

ARTICLE 11

- (1) Without prejudice to the provisions of Articles 4 and 14(2) of the Protocol attached as an annex to this Agreement, when an offence is committed on the territory of one of the three States that State shall have jurisdiction.
- (2) When it cannot be ascertained where such an offence has been committed, the State of arrival shall have jurisdiction.

ARTICLE 12

Where an arrest is made for an offence in respect of which one State has jurisdiction under Article 11, that arrest shall not be affected by the fact that its effects continue in the territory of the other States.

ARTICLE 13

Persons who are found committing, attempting to commit, or just having committed an offence and who are apprehended on the train during the journey shall be handed over as soon as possible to the empowered officers of the State which has jurisdiction under Article 11.

ARTICLE 14

- (1) In the event that a person is found committing, attempting to commit or just having committed on board a train in the territory of a State one of the following offences: homicide, rape, arson, armed robbery, kidnapping and hostage taking, or use of explosives, the train must be stopped in order to enable the competent authorities of that State to take any measures relevant to their investigations and, where appropriate, detain the person suspected of having committed the offence.
- (2) If the train cannot be stopped because it is within the Fixed Link or because it is about to leave the territory of the State in which one of the offences referred to in the preceding paragraph has been committed, authorised officers who are present must take all appropriate interim measures to ensure that, when the train arrives, the officers of the State which has jurisdiction under Article 11 are able to interview witnesses, take evidence or receive information relevant to their investigations and, where appropriate, take charge of the person suspected of having committed the offence.

ARTICLE 15

- (1) When a person is arrested in a manner covered by Articles 6, 12, 13 and 14(2) of this Agreement, the arrest shall be notified without delay to the authorities of the State of arrival. The person arrested may be transferred to the territory of the State which has jurisdiction under Article 11.
- (2) However, any such transfer shall take place within no more than 24 hours of the notification under the preceding paragraph. Moreover, each State reserves the right not to authorise the transfer of its nationals.

PART IV

Tripartite Intergovernmental Committee

ARTICLE 16

(1) A Tripartite Intergovernmental Committee shall be established in order to deal, in the name of the three Contracting Parties, with all questions relative to the implementation of this Agreement.

(2) The Committee shall be composed of duly authorised representatives of the Governments of the Contracting Parties.

ARTICLE 17

(1) Within the context of the powers defined in the preceding Article, the Committee shall consider any matter referred to it by the Contracting Parties concerning the rail link between Belgium and the United Kingdom.

(2) In that context, the Committee shall in particular be consulted on any draft bilateral or trilateral agreement or arrangement between the Contracting Parties.

(3) With regard to trains travelling between the United Kingdom and Belgium, the Committee shall assure itself that the authorities designated in accordance with Article 3(1) consult and act jointly, save in exceptional circumstances.

(4) The Committee shall exercise its functions with respect to any questions referred to it by the Contracting Parties and by the authorities and bodies subordinate to them.

ARTICLE 18

The Committee shall comprise at most fifteen members. Each Government shall appoint one third of the members of the Committee. The Chairmanship shall be held for a period of one year by the head of each delegation in succession. For the purpose of carrying out its functions, the Committee may invoke the assistance of the authorities of each Government or any body or expert of its choice.

ARTICLE 19

Meetings of the Committee shall be convened at the request of one of the three delegations. The Committee's rules of procedure shall be drawn up by agreement between the heads of the French, British and Belgian delegations.

PART V

Co-operation Between the Competent Authorities

ARTICLE 20

In pursuance of Part II, permanent liaison measures shall be established between the competent authorities of the three States, which shall include:

- (a) the regular holding of co-ordination meetings between the authorities responsible for security and frontier controls;
- (b) the establishment of communications facilities permitting under all circumstances contact between the respective national authorities;

- (c) the possible assignment by each Contracting Party of liaison officers to the authorities of the other two Parties, for such purposes and in such manner as may be determined by administrative arrangements.

ARTICLE 21

In the event of any exceptional circumstances, such as natural disasters, acts of terrorism or armed conflict, or the threat thereof, each Contracting Party, after consultation with the other Contracting Parties if circumstances permit, may take measures derogating from its obligations under this Agreement or any supplementary arrangements.

ARTICLE 22

Such measures may include the closure of the railway line. They shall be limited to the extent required by the exigencies of the situation and shall be notified immediately to the other Contracting Parties.

ARTICLE 23

- (1) Each State shall waive any claim which it may have against the other States for compensation in respect of damage caused to its officers or its property.
- (2) The provisions of this Article shall not affect in any way the rights of third parties under the laws of each State.

PART VI

Final Clauses

ARTICLE 24

In addition to the arrangements provided for under Article 20, the procedures for the implementation of this Agreement and its Protocol may, as far as necessary, be the subject of technical or administrative arrangements between the competent authorities of the three States.

ARTICLE 25

- (1) Each Contracting Party may request consultations with a view to revising the provisions of this Agreement and its 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.

(2) The Contracting Parties shall decide jointly upon the amendments to this Agreement and its Protocol, which shall enter into force following ratification or approval by the three Contracting Parties in accordance with their respective constitutional rules.

ARTICLE 26

Any disputes concerning the interpretation or application of this Agreement or its Protocol shall be settled by negotiation between the three Governments.

ARTICLE 27

The provisions of this Agreement and its Protocol shall apply only in so far as they are compatible with Community law.

ARTICLE 28

This Agreement and its Protocol shall be subject to ratification or approval. The instruments of ratification or approval shall be deposited in the archives of the Government of the Kingdom of Belgium. It shall notify the Contracting Parties of the deposit of the instruments. 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 or approval¹.

The Government of the Kingdom of Belgium shall inform the Contracting Parties of the date of entry into force.

In witness whereof, the respective plenipotentiaries, duly authorised thereto by their Governments, have signed this Agreement.

Done in triplicate at Brussels on 15 December 1993 in the English, French and Dutch languages, all three texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

J. GRAY

For the Government of the Kingdom
of Belgium:

G. COËME

For the Government of the French
Republic:

J. BERNIERE

¹ France deposited its instrument on 28 July 1994, the United Kingdom on 25 August 1994 and Belgium on 21 October 1997. The Agreement and the Protocol entered into force on 1 December 1997.

**PROTOCOL
CONCERNING NON-STOP RAIL TRAFFIC
BETWEEN BELGIUM AND THE UNITED KINGDOM
USING THE CHANNEL FIXED LINK**

ARTICLE 1

This Protocol shall apply to non-stop rail traffic between the United Kingdom and Belgium travelling via the Fixed Link and passing through French territory.

ARTICLE 2

(1) The laws and regulations relating to frontier controls of one State shall be applicable in the control zone situated in the other States and shall be put into effect by the officers of that State in the same way as in their own territory.

(2) The officers of each State shall be subject to the legislation of that State on the protection of individuals with regard to automated processing of personal data when using their automated data files and equipment in the control zone situated in either of the other States.

ARTICLE 3

(1) 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. These officers shall also be permitted to conduct such persons to the territory of their own State.

(2) 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.

ARTICLE 4

Breaches of the laws and regulations relating to frontier controls of the other States 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 accept 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 three 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 the Kingdom of Belgium and of the United Kingdom 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 Tripartite Intergovernmental Committee.

ARTICLE 17

The authorities of the Kingdom of Belgium and of the United Kingdom 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.

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 and dues 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.

DECLARATION OF THE GOVERNMENT OF THE KINGDOM OF BELGIUM

On the occasion of the signature of:

- the Agreement between the Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium concerning rail traffic between Belgium and the United Kingdom using the Channel Fixed Link (“the Agreement”),
- the Protocol concerning non-stop rail traffic between Belgium and the United Kingdom using the Channel Fixed Link (“the Protocol”),
- the Special Arrangement 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 security matters relating to trains using the Channel Fixed Link and travelling between the United Kingdom and Belgium (“the Special Arrangement”) and
- the Protocol on the Establishment of a Tripartite Intergovernmental Committee,

The Government of the Kingdom of Belgium reserves the right to refer to article 25 of the Agreement and to request that a diplomatic conference of the three Contracting Parties be convened, in case one of the three Parties should modify its position as to its participation or non-participation in the Schengen Agreements.

The purpose of this diplomatic conference would be to assess the provisions of the diplomatic instruments signed today in the light of the new situation that could have emerged in the relations between the three Contracting Parties.

In the present situation, the Government of the Kingdom of Belgium will consider, as far as non-stop trains travelling between the United Kingdom and Belgium are concerned, the Brussels terminus as a point of entry into and exit from the territory of the Group of Schengen countries, where the frontier controls prescribed by the Schengen implementing agreements shall be carried out.

Furthermore, the Government of the Kingdom of Belgium wishes to stress that the signature of the above-mentioned Agreements shall be without prejudice to its interpretation of article 7A of the Treaty on European Union.



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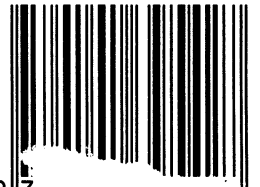
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ISBN 0-10-139542-6



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