

N° 3723.

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**BELGIQUE  
ET GRAND-DUCHÉ DE  
LUXEMBOURG**

Convention établissant une communauté spéciale de recettes en ce qui concerne les droits d'accise perçus sur les alcools, avec règlement applicable aux distillateurs agricoles du Grand-Duché de Luxembourg. Signée à Bruxelles, le 23 mai 1935.

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**BELGIUM  
AND GRAND DUCHY OF  
LUXEMBURG**

Convention providing for Special Common Receipts in regard to Excise Duties levied on Alcohol, and Regulations applicable to the Agricultural Distillers of the Grand Duchy of Luxemburg. Signed at Brussels, May 23rd, 1935.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 3723. — CONVENTION<sup>2</sup> BETWEEN BELGIUM AND THE GRAND DUCHY OF LUXEMBURG PROVIDING FOR SPECIAL COMMON RECEIPTS IN REGARD TO EXCISE DUTIES LEVIED ON ALCOHOL. SIGNED AT BRUSSELS, MAY 23RD, 1935.

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*French official text communicated by the Belgian Minister for Foreign Affairs. The registration of this Convention took place August 29th, 1935.*

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HIS MAJESTY THE KING OF THE BELGIANS  
and

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG,

Being desirous of solving the difficulties which have arisen in connection with the revenue regulations concerning alcohol in the Economic Union, have resolved to conclude a Convention for this purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

Monsieur Max-Léo GÉRARD, Minister of Finance ; and

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBURG,

Monsieur Pierre DUPONG, Minister of Finance, Social Welfare and Labour ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following Articles :

*Article 1.*

The net receipts from excise duties levied on alcohol and spirits in Belgium and the Grand Duchy of Luxemburg shall constitute common receipts, the total sum due to each of the two countries being calculated by dividing the said common receipts into two moieties, the one to be divided in the proportion of eight-ninths and one-ninth as between Belgium and Luxemburg respectively, and the other in the proportion of twenty-seven twenty-eighths and one twenty-eighth as between Belgium and Luxemburg respectively.

Net receipts shall be deemed to mean receipts from the duties levied on alcohol or spirits produced in either country after deduction of the regulation rebates and refunds, it being understood that each country shall continue to be responsible to the other for the collection of the duty chargeable on alcohol produced in its own territory.

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<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Brussels, August 6th, 1935. Came into force January 1st, 1935.

*Article 2.*

At the end of each quarter the High Contracting Parties shall furnish to the Mixed Administrative Council set up under Article 19 of the Convention<sup>1</sup> for the Establishment of an Economic Union such information as will enable it to draw up a statement showing the common receipts on alcohol during the quarter. The Mixed Administrative Council shall calculate the part due to each of the two Parties in accordance with the method described in Article 1 together with the amount, if any, to be refunded to the other country by the country in which the actual receipts are in excess of such part.

*Article 3.*

As from the entry into force of the present Convention agricultural distilleries, whether taxed at a flat rate or otherwise, which are, or may be, established in the Grand Duchy shall be subject to the regulations annexed to the present Convention and forming an integral part thereof.

The reduction allowed on the rate of excise duty levied on alcohol produced in such agricultural distilleries in Luxemburg as are not taxed at a flat rate, that is to say, agricultural distilleries provided with checking apparatus, may not exceed the reduction allowed in the case of agricultural distilleries in Belgium, provided always that, even where the reduction allowed in the case of agricultural distilleries in Belgium is less than the figures indicated hereunder, the Government of the Grand Duchy may allow agricultural distilleries provided with checking apparatus, which were established in the Grand Duchy before January 1st, 1933, a reduction per litre of alcohol at 50°, temperature 15°, of not more than :

(a) 0.90 francs on not more than 20,000 litres at 50°, temperature 15°, of the annual production of each such distillery ;

(b) 0.60 francs on the annual production of each such distillery exceeding 20,000 litres at 50°, temperature 15°.

Distilleries of cereals established in the Grand Duchy which are taxed at a flat rate may not produce more than 10 per cent in excess of the amount of alcohol liable to duty. The whole of any surplus over and above this figure, as disclosed either by distilling tests, or by a check on the records of manufacture and sale, or by any other means, shall be liable to excise duty at the full rate in addition to the penalties incurred, if any.

*Article 4.*

The following distilleries in the Grand Duchy shall be equipped with checking apparatus for recording accurately the amount of phlegm actually produced :

(a) Distilleries producing over 4,000 litres per annum of phlegm at 50°, temperature 15° ;

(b) Distilleries producing not more than 4,000 litres of phlegm at 50°, temperature 15°, which employ in any, even a subsidiary, capacity the following materials :

Materials other than cereals or other farinaceous materials ;

Materials other than fruit, berries, wine, must or lees of wine, or roots grown in the country.

In new distilleries established after the date on which the present Convention is ratified the said apparatus shall consist of measuring receptacles, hermetically connected with the distilling plant, to take the whole of the product.

*Article 5.*

Not more than six litres of alcohol, spirits or liquor, irrespective of strength, may be conveyed to, or held in, the territory of either country, unless it is accompanied by a document complying

<sup>1</sup> Vol. IX, page 223 ; Vol. CXXXIV, page 394 ; and Vol. CLX, page 327, of this Series.

with the conditions laid down in the regulations of the country from which the goods have been consigned.

*Article 6.*

Not more than two million litres of the alcohol at 50°, temperature 15°, produced by the agricultural distilleries in the Grand Duchy, whether distilleries taxed at a flat rate or otherwise, may be imported into Belgium during any calendar year.

*Article 7.*

Not later than the date on which the present Convention is ratified, the Grand Duchy shall impose a tax, in conformity with the principles applied in Belgium, to be known as "Special Consumption Tax", on alcohol, spirits and other alcoholic liquors declared to be for consumption in the Grand Duchy, to be collected either on importation into Luxemburg territory by any route, including the common frontier, or on leaving the distilleries or rectifying factories. The said Luxemburg tax shall be :

- (a) For the year 1935, not less than one-third of the corresponding tax payable in Belgium at the time the tax is imposed in Luxemburg ;
- (b) For the year 1936, not less than two-thirds of the above-mentioned corresponding tax payable in Belgium ;
- (c) For the year 1937 and subsequent years, the same as the above-mentioned corresponding tax payable in Belgium.

The whole of the yield from the Special Consumption Tax shall accrue to the country in whose territory the alcohol, spirits or other alcoholic liquors are consumed.

*Article 8.*

The Luxemburg Government undertakes to render more stringent the supervision exercised over the distilleries in its territory, and to take such action as may at any time be necessary to render such supervision effective.

Furthermore, the penalties laid down in the Grand Duchy for the punishment of fraud in respect of the manufacture or sale of alcohol shall be brought into line with those laid down in Belgian legislation.

The administrative officials of each country shall diligently assist one another in detecting, reporting and suppressing fraud and attempted fraud or fraudulent schemes in respect of alcohol.

The administrative officials of each country shall make visits of inspection in conjunction with the administrative officials of the other country throughout the whole of the Economic Union. They shall have the same rights of investigation and supervision on such occasions as officials making visits of inspection in their own country.

*Article 9.*

The Minister of Finance of Belgium and the Minister of Finance of the Grand Duchy of Luxemburg shall be empowered in concert to interpret the present Convention and to lay down rules for the enforcement thereof, and more particularly to lay down procedure for the settlement of any dispute between the administrative authorities of the two countries in connection with defects or alleged defects in the regulations calling for remedy, or in connection with the administrative supervision or material measures of control.

*Article 10.*

The present Convention shall be concluded for a period of three years from January 1st, 1935, and shall have full effect as from that date.

On the expiry of the first period of three years, it shall be renewed by tacit consent for a further period of one year on each occasion throughout the duration of the Economic Union.

It may be denounced by either High Contracting Party at six months' notice on the expiry of any single period of validity, or alternatively by notice given not later than June 30th, 1937, during the first three-year period, and not later than June 30th of each year during the subsequent one-year periods.

*Article II.*

The present Convention shall be ratified, after approval by the Houses of Parliament in Belgium and by the Legislative Authority in Luxemburg, and the instruments of ratification shall be exchanged at Brussels at the earliest possible date.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have affixed their seals thereto.

Done in two originals at Brussels, the 23rd day of May, 1935.

(Signed) Max-Léo GÉRARD.

(Signed) DUPONG.

REGULATIONS

APPLICABLE TO THE AGRICULTURAL DISTILLERS OF THE GRAND DUCHY OF LUXEMBURG.

*Article I.*

§ 1. The following shall be regarded as agricultural distillers :

*A.* Any person who, within an area of five kilometres of the distillery, cultivates arable land on his own account in the proportion of one hectare for every eight litres of alcohol at 50°, temperature 15°, produced per period of 24 hours.

For the purpose of the above provision, one hectare of pasture shall be deemed to be the equivalent of fifty ares of arable.

Agricultural distillers must own and feed from their own production at least one head of big cattle or three pigs or six sheep to every hectare of the arable land to which the present provision relates.

*B.* Co-operative societies formed for the purpose of distilling, provided the membership of the same is restricted to cultivators.

Each member must cultivate at least fifty ares of arable land within an area of five kilometres of the distillery. The total area under cultivation shall be one hectare for every eight litres of alcohol at 50°, temperature 15°, produced per period of 24 hours.

For the purpose of the above provision, one hectare of pasture shall be deemed to be the equivalent of fifty ares of arable land.

Each member must own and feed from his own production at least one head of big cattle or three pigs or six sheep, and the same for every hectare over and above the minimum of fifty ares.

Other conditions applicable to co-operative societies and their members shall be determined by Government.

§ 2. If a distiller produces yeast for sale, the area under cultivation and the number of head of cattle stipulated under § 1 shall be increased by one-half, and the reduction in excise duty shall be decreased by one-third.

*Article 2.*

Agricultural distillers must utilise :

- (1) All residues from distilling for feeding the cattle on their own farms ;
- (2) All fertilisers produced for dressing their own land.

In the event of epizootic disease or other circumstances of *force majeure*, the Director of Taxes and Excise may temporarily authorise the sale of residues or fertilisers to third parties.

*Article 3.*

The following shall not be regarded as agricultural distillers :

- A. Any person who utilises glucose, molasses, sugar or syrup or who distils fruit imported from abroad ;
- B. Any person who rectifies phlegm or alcohol not produced in his own distillery ;
- C. Any person who sells or in any way disposes of more than six litres at a time of beverages not distilled in his own distillery ;
- D. Any person who produces more than 146,000 litres of alcohol at 50°, temperature 15°, in the year, that is to say between January 1st and December 31st.

*Article 4.*

Agricultural distillers must cease distilling between May 1st and August 15th in each year. During this period the stills shall be placed under official seal.

In the event, however, of epizootic disease or other circumstances of *force majeure*, the Government may authorise distilling during the said period either in general or in a particular distillery or distilleries.

*Article 5.*

§ 1. Excise duty shall be payable at the reduced rate only where the total output for the period from August 16th to April 30th of the following year does not exceed the maximum allowance calculated at the rate of eight litres of alcohol at 50°, temperature 15°, per day per hectare of arable land.

Should a distiller or co-operator not own the number of cattle stipulated under Article 1, A, third paragraph, and B, fourth paragraph, the area taken into account in fixing the maximum output shall be reduced in proportion to the shortage of cattle, that is to say at the rate of one hectare for every head of big cattle, or three pigs, or six sheep short of the prescribed number.

§ 2. The maximum output of each distillery calculated in accordance with § 1 shall not exceed the average output for the three years 1931, 1932 and 1933, which shall be taken as the standard years for purposes of the calculation.

Should the distillery have been working for a part only of one or more of the standard years, the average output for the three years shall be calculated by estimating the total output for the incomplete year or years on the basis of the period worked and of the actual output.

The average output of distilleries which were closed during the three standard years, or during one or more thereof, shall be fixed by the Director of Taxes and Excise on the basis of the output for the last three years of activity.

*Article 6.*

§ 1. Distillers conforming to the conditions under which duty is payable at a reduced rate must make a declaration to that effect to the local Collector of Excise before beginning the season's work.

§ 2. The declaration shall indicate the number of hectares under cultivation, the nature and position of the land and the number of head of cattle, pigs or sheep belonging to the undertaking. It shall be checked by the officials of the Excise Department.

*Article 7.*

Agricultural distillers must keep a stock-book in accordance with the model drawn up by the Director of Taxes and Excise, in which they shall enter at the end of every fortnight the number of head of cattle, pigs or sheep belonging to the undertaking; they must produce this stock-book to the officials of the Excise Department on demand.

The said officials shall from time to time take a census of the stock entered in the stock-book. Distillers must assist them in the performance of their duty in connection therewith, and in particular must afford them free access to all cattle-sheds.

*Article 8.*

§ 1. Should the output of an agricultural distillery be found to have exceeded the authorised maximum, excise duty at the full rate shall be payable on the surplus alcohol.

Over and above the additional tax payable under the preceding paragraph, a fine shall be imposed, the amount of which shall be ten times the reduction in excise duty from which the distiller has improperly benefited or sought to benefit.

§ 2. A fine of 5,000 francs shall be imposed for any infringement of the conditions under which excise duty is payable by agricultural distillers at a reduced rate, other than the infringements to which § 1 relates.

§ 3. If a second offence is committed within three years of the first offence, the fines payable under §§ 1 and 2 respectively shall be doubled. If a third offence is recorded within the same period, the fines payable shall be tripled, and the distiller's right to reduction of the excise duty shall be permanently withdrawn.

*Article 9.*

The system for which provision is made in the present Regulations shall apply both to distilleries established before January 1st, 1933, and to distilleries established after that date.

*Article 10.*

These Regulations shall not apply to distilleries which use exclusively fruit, berries, wine, or roots grown in the Grand Duchy of Luxemburg or residues of the same.

The excise duty on alcohol produced in such distilleries shall continue to be collected in accordance with the legislation in force in the Grand Duchy on the date on which the present Regulations come into force, provided always in the case of distilleries taxed at a flat rate that there is a reasonable relationship between the output upon which the rate of the tax is based and the actual output.