

1588

No. 7843

**NETHERLANDS
and
BELGIUM**

**Treaty concerning the connexion between the Scheldt
and the Rhine (with annexes). Signed at The Hague,
on 13 May 1963**

Official texts: Dutch and French.

Registered by the Netherlands on 22 June 1965.

**PAYS-BAS
et
BELGIQUE**

**Traité au sujet de la liaison entre l'Escaut et le Rhin
(avec annexes). Signé à La Haye, le 13 mai 1963**

Textes officiels néerlandais et français.

Enregistré par les Pays-Bas le 22 juin 1965.

[TRANSLATION — TRADUCTION]

No. 7843. TREATY¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE KINGDOM OF BELGIUM CONCERNING THE CONNEXION BETWEEN THE SCHELDT AND THE RHINE. SIGNED AT THE HAGUE, ON 13 MAY 1963

Her Majesty the Queen of the Netherlands and

His Majesty the King of the Belgians,

Desiring in view of the Treaty² instituting the Benelux Economic Union, to make a new contribution to the promotion of friendly co-operation between their two countries,

Wishing, in that spirit, to improve the connexion for navigation between the Scheldt and the Rhine and to settle a number of questions relating thereto,

Confirming that with regard to transport and seaports they aim at the application of the principles of the Treaty instituting the Benelux Economic Union,

Have decided to conclude a Treaty for this purpose and have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

His Excellency Mr. J. E. de Quay, Prime Minister, Minister for General Affairs, and

His Excellency Mr. J. M. A. H. Luns, Minister for Foreign Affairs ;

His Majesty the King of the Belgians :

His Excellency Mr. T. Lefèvre, Prime Minister, and

His Excellency Mr. H. Fayat, Deputy Minister for Foreign Affairs,

Who, having exchanged their full powers, found in good and due form, have agreed as follows :

¹ In accordance with and subject to the provisions of article 50, the Treaty came into force on 23 April 1965, one month after the date of the exchange of the instruments of ratification, which took place at Brussels on 23 March 1965.

² United Nations, *Treaty Series*, Vol. 381, p. 165, and Vol. 480, p. 432.

CHAPTER A
DEFINITIONS

Article 1

In this Treaty :

a) " Treaty for the Union " means the Treaty signed at the Hague on 3 February 1958¹ between the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, instituting the Benelux Economic Union ;

b) " Committee of Ministers " means the Committee of Ministers instituted by article 15 of the Treaty for the Union ;

c) " Ministers " means the Netherlands Minister and the Belgian Minister referred to in article 7 of this Treaty ;

d) " Officials " means the Netherlands official and the Belgian official designated in accordance with article 7 of this Treaty ;

e) " Arbitration Board " means the Arbitration Board referred to in article 42 of this Treaty.

CHAPTER B

IMPROVEMENT OF THE CONNEXION BETWEEN THE SCHELDT
AND THE RHINE

Title I

WORKS TO BE CARRIED OUT

Article 2

In order to improve the connexion between the Scheldt and the Rhine, a navigable waterway shall be established which shall be connected near Zandvliet with the Antwerp harbour system, then run to the Eastern Scheldt, cross the latter in an approximately northerly direction, pass through the Eendracht, then cut through the Slaakdam and the Prins Hendrikpolder east of St. Philipsland and debouch into the Krammer.

Article 3

1. For the purpose of establishing the navigable waterway referred to in article 2, the following works shall be carried out :

(a) The excavation of a canal from Antwerp harbour to the Eastern Scheldt ;

¹ See footnote 2, p. 56 of this volume.

- (b) The establishment of a channel across the Eastern Scheldt ;
- (c) Enlargement of the Eendracht and improvement of the bed of that navigable waterway ;
- (d) The excavation of a canal through the Slaakdam and the Prins Hendrikpolder and the linkage of that canal with the Eendracht at one end and the Krammer at the other end ;
- (e) The construction of a system of locks between the canal mentioned in sub-paragraph (a) and the Eastern Scheldt, including the construction of holding basins ;
- (f) The construction of road and railway bridges over the navigable waterways mentioned in sub-paragraphs (a), (c) and (d) and over the system of locks referred to in sub-paragraph (e), including in each case the necessary approach ramps and road connexions ;
- (g) Improvement of existing principal dikes and construction of new dikes ;
- (h) The making of arrangements in the interest of the water economy, including the prevention of salinization and of water pollution ;
- (i) Such temporary or permanent works and arrangements as may prove necessary or desirable in connexion with or as a result of the execution of the aforementioned works, with a view to their efficient maintenance, use and operation and to the adaptation of existing conditions to the new works and the new water conditions.

2. The works referred to in the preceding paragraph shall be undertaken as soon as possible after the entry into force of this Treaty.

Article 4

In addition, depending on the progress of the operations for the closure of the Zeeland and South Holland sea inlets and not later than two years after the tidal movement in the Eastern Scheldt has become negligible, the following works shall be undertaken :

- (a) The construction of a dike along the channel across the Eastern Scheldt ;
- (b) Further enlargement of the Eendracht and the final stage of work on its banks ;
- (c) The making of further arrangements in the interest of the water economy ;
- (d) Such temporary or permanent works and arrangements as may prove necessary or desirable in connexion with or as a result of the execution of the aforementioned works, with a view to their efficient maintenance, use and

operation and to the adaptation of existing conditions to the new works and the new water conditions.

Article 5

The works referred to in articles 3 and 4 shall be carried out in accordance with the particulars given in the description of the works (annex I)¹ and the plan (annex II)² annexed to this Treaty. No departure from the said particulars shall be permitted except as provided in articles 8, 10 and 11.

Title II

PLANNING AND EXECUTION OF THE WORKS

Article 6

The High Contracting Parties shall be responsible, each in its own territory, for the planning and execution of the works referred to in articles 3 and 4, including the preparation of plans and of invitations for tenders, the acquisition of immovable property, the disposal of spoil, the purchase of materials and the award of contracts. For these purposes they shall follow the procedure customary in the country in question for the execution of similar State works.

Article 7

The Netherlands Minister responsible for Public Works and the Belgian Minister responsible for the Administration of Bridges and Roads (Administration of Waterways) shall each designate an official to manage and supervise the planning and execution of the works in Netherlands and Belgian territory respectively. The said officials shall consult together regularly on all questions of mutual interest that may arise in connexion with such planning and execution. They shall be given the necessary powers to ensure that the work proceeds satisfactorily.

Article 8

Specifications and contracts for the execution of works shall be subject to prior approval by both Ministers. In these documents, departures may be made from the particulars given in annexes I and II and from the time-limits referred to in articles 3 and 4. The two Ministers shall send each other copies of the contracts awarded.

¹ See p. 74 of this volume.

² See insert between pp. 82 and 83 of this volume.

Article 9

1. Contracts for the supply of materials and the execution of works shall be awarded, after a public invitation of tenders, in accordance with the regulations in force in the country concerned. The invitation of tenders shall be announced in each country in accordance with the regulations in force there.

2. In cases in which a public invitation of tenders is impossible or undesirable, the decision may be taken, subject to compliance with the applicable regulations, to follow some other procedure in awarding contracts for the supply of materials and the execution of works.

3. A decision as described in the preceding paragraph shall be subject to the consent of both Ministers unless it relates to supplies or works whose estimated value does not exceed 75,000 guilders or 1 million Belgian francs. The selection of the suppliers or contractors to be approached shall also be subject to such consent.

Article 10

1. Such modifications of, departures from or additions to the documents approved in accordance with article 8 as may prove necessary or desirable in the course of the execution of works shall be submitted by the official concerned to the official of the other country for approval.

2. If the modifications, departures or additions referred to in paragraph 1 entail :

- (a) A departure from the particulars given in annexes I and II, or
- (b) An increase in costs by more than 10 per cent of the amount of the tender,

the approval of the two Ministers shall be required, it being understood, however, that such approval shall not be required for departures by less than 50,000 guilders or 750,000 Belgian francs and shall in every case be required for departures by more than 500,000 guilders or 7.5 million Belgian francs.

Article 11

Where unforeseen works or measures of an emergency nature become necessary, they may be carried out or adopted even though the approval referred to in article 10 has not been obtained. In such cases, the official concerned shall so notify the official of the other country as soon as possible.

Article 12

The works executed by the contractors shall be accepted only after consultation between the officials.

Title III

MAINTENANCE, RENOVATION AND OPERATION OF WORKS

Article 13

1. The High Contracting Parties shall provide, each in its own territory, for the maintenance and renovation of the navigable waterway referred to in article 2 and of the engineering works appertaining thereto, at least in accordance with the description to which the said navigable waterway is required to conform under this Treaty. They shall also be responsible for the operation of the engineering works appertaining to the navigable waterway.

2. If either of the High Contracting Parties decides to build bridges over the navigable waterway in addition to bridges referred to in article 3, paragraph 1, sub-paragraph (f), and specified in annex II, the navigable span and vertical clearance of such additional bridges shall be at least equal to those of the fixed bridges described in annex I. The bridges must not obstruct the view required for inland navigation.

3. Similarly, the height of such high-tension or other lines as may in the future cross over the navigable waterway and the depth of burial of such cables, conduits, culverts and other engineering works as may in the future cross under the navigable waterway shall be at least equal to the minimum values specified in annex I for the lines, cables, conduits, culverts and other engineering works to be installed at the time of construction of the navigable waterway.

4. The normal cross-section of the navigable waterway shall be reserved in its entirety for through traffic. Such turning basins as may be provided shall be clear of the normal cross-section of the navigable waterway.

5. The special regulations for navigation to be adopted by each of the High Contracting Parties for the section of the navigable waterway situated in its territory shall include provisions giving priority to through traffic and ensuring that the obstruction presented to through traffic by harbours and branch or junction canals is reduced to a minimum.

Title IV

IMPROVEMENT OF THE NAVIGABLE WATERWAY AND OF THE ENGINEERING WORKS APPERTAINING THERETO

Article 14

1. If either of the High Contracting Parties expresses the view that it is desirable for works to be carried out in the territory of the other Party to improve the navigable waterway referred to in article 2 or the engineering

works appertaining thereto, consultations on the subject shall be held between the two Governments.

2. If the said consultations relate to works which require no land other than that already in use or reserved under this Treaty, either of the High Contracting Parties may, in the event that the consultations do not lead to agreement, submit the questions in dispute to the Arbitration Board. In rendering its decision, the Board shall take into account the interests of navigation and all other interests affected. It shall not be competent to rule on any apportionment of the costs involved.

3. The consultations referred to in the preceding paragraphs shall also deal with the manner in which the cost of the works to be carried out is to be apportioned between the two Parties according to their respective interests.

However, at the request of the Party in whose territory works as described in paragraph 2 are to be carried out, the entire cost of such works shall be borne by the other Party.

Title V

MEASURES RELATING TO THE WATER ECONOMY, INCLUDING THE PREVENTION OF SALINIZATION AND OF WATER POLLUTION

Article 15

1. The High Contracting Parties shall, each in its own territory, adopt the necessary measures to ensure that the water-level of the canal mentioned in article 3, paragraph 1, sub-paragraph (a), is maintained so far as possible at 1.60 metres + N.A.P. (Standard Amsterdam Level) or (+ 4.00) E.M. (Belgian Staff Ordnance Survey). The technical services of the two countries shall communicate with each other regularly to this end ; they shall not adopt, without first consulting each other, any measures which may affect the said level. As soon as the water-level of the canal reaches 1.95 metres + N.A.P. or (+ 4.35) E.M., the Belgian service shall, at the first request of the Netherlands service, completely cut off the supply of water to the canal until further notice.

2. The Netherlands shall ensure that, after the closure of the Eastern Scheldt, the water-level in the sections of the navigable waterway which are referred to in article 3, paragraph 1, sub-paragraphs (b), (c) and (d), does not, save under special wind conditions, fall below 1.00 m — N.A.P. or (+ 1.40) E.M. or rise above 0.50 m + N.A.P. or (+ 2.90) E.M.

Article 16

1. In view of the interests in the drinking-water supply and in water consumption for agricultural and industrial purposes which will be affected by

the fresh-water basin to be formed in the waters of South Holland and Zeeland, every effort shall be made to prevent salinization of the said basin as a result of the use of the navigable waterway referred to in article 2 and, in particular, of the system of locks referred to in article 3, paragraph 1, sub-paragraph (e). Installations for that purpose shall be provided in and near the said system of locks, and the Netherlands shall take all necessary measures for the maintenance and operation of the said installations.

2. The High Contracting Parties are in agreement, on the one hand, that the need to safeguard the interests referred to in the preceding paragraph makes it undesirable that the quantity of fresh water in the aforementioned basin should be diminished through any withdrawal of water therefrom as a precaution against the salinization referred to in the preceding paragraph and, on the other hand, that Belgian interests in the drinking-water supply and in water consumption for agricultural and industrial purposes should equally be taken into account. In view of the said Netherlands interests, Belgium shall ensure the supply of a quantity of fresh water equal to the quantity withdrawn from the fresh-water basin for the purpose of preventing such salinization, in so far as this is compatible with reasonable protection of the said Belgian interests and provided that the Netherlands does not indicate that a smaller quantity will suffice.

3. Within five years after the date of signature of this Treaty, the two Ministers shall agree on a settlement concerning the application of the preceding two paragraphs. The said settlement shall cover *inter alia* the quantity and quality of the fresh water to be supplied by Belgium to the Netherlands and the conditions under which, the method by which and the places on the Netherlands-Belgian frontier at which the said water will be made available.

4. If the Ministers fail to reach agreement within the time-limit fixed in the preceding paragraph, either of the High Contracting Parties may request the Arbitration Board to dictate, with regard to the questions in dispute, the settlement referred to in that paragraph.

Article 17

1. The two Ministers shall make arrangements and adopt measures to prevent any floating refuse, oil or other flotsam from entering the system of locks referred to in article 3, paragraph 1, sub-paragraph (e), by way of the section of the navigable waterway which is referred to in article 3, paragraph 1, sub-paragraph (a).

2. Without prejudice to the obligations laid on the High Contracting Parties by multilateral treaties, the two Ministers shall ensure that the water of the canal meets the standards of quality which they shall fix in a settlement to be arrived at, within five years after the date of signature of this Treaty, in conjunction with the settlement referred to in article 16, paragraph 3.

This settlement shall include *inter alia* provisions concerning the joint observations to be made regularly by the technical services of the two countries in order to determine the quality of the canal water.

3. If no agreement is reached concerning the settlement to be arrived at under the preceding paragraph or concerning an amendment thereto, either of the High Contracting Parties may request the Arbitration Board to dictate the said settlement or an amendment thereto with regard to the questions in dispute.

4. Each Minister shall communicate to the other, in connexion with existing or future installations which discharge liquid and/or solid radioactive waste into the section of the canal situated in his country, all particulars necessary to determine the degree of radioactive contamination of the canal water resulting from such discharge. The said particulars shall include *inter alia* a detailed statement of the nature and quantity of the radioactive substances discharged or to be discharged and the place and conditions of discharge.

5. The two Ministers shall review the standards of quality relating to radioactivity if such review is necessary in the light of the standards laid down for international watercourses by virtue of the Treaty establishing the European Atomic Energy Community (EURATOM), signed at Rome on 25 March 1957,¹ or by virtue of any other treaty binding on the High Contracting Parties, or in the light of the results of analyses.

Title VI

PRINCIPAL DIKES

Article 18

1. The High Contracting Parties shall ensure, each in its own territory, that the works referred to in article 3, paragraph 1, sub-paragraph (g), for the improvement of the principal dikes are completed, in so far as they relate to the canal referred to in article 3, paragraph 1, sub-paragraph (a), before the completion of the said canal.

2. They shall be responsible, each in its own territory, for maintaining in good condition at all times the principal dikes and engineering works which separate the outer waters from the canal referred to in article 3, paragraph 1, sub-paragraph (a), and from the harbour basins and other waters freely communicating with it.

¹ United Nations, *Treaty Series*, Vol. 298, p. 167.

Title VII

APPORTIONMENT OF COSTS

Article 19

Subject to the provisions of articles 20 to 23 inclusive, the costs of the works referred to in articles 3 and 4 shall be apportioned as follows :

1. Works in Belgian territory :

The costs of the planning, execution, maintenance, renovation and operation of the works shall be borne in their entirety by Belgium.

2. Works in Netherlands territory :

(a) The costs of the planning and execution of the works referred to in article 3, paragraph 1, sub-paragraphs (a), (b) and (e), and of the works referred to in article 3, paragraph 1, sub-paragraphs (f), (g), (h) and (i), in so far as they relate to the aforementioned works, shall be apportioned between Belgium and the Netherlands at the rate of 85 per cent and 15 per cent respectively ;

(b) The costs of the planning and execution of all other works shall be borne in their entirety by Belgium ;

(c) The costs of the maintenance, renovation and operation of the works shall be borne in their entirety by the Netherlands.

Article 20

The costs, referred to in article 19, of the planning and execution of works in Netherlands territory shall include *inter alia* :

(a) The prices and compensation payable to third parties for the purchase or expropriation of immovable property as well as other purchase and expropriation costs, it being understood that the contribution paid by Belgium towards the net market value of land acquired for the deposit of spoil shall be refunded by the Netherlands as soon as such land has been resold to or has again been placed at the disposal of third parties ;

(b) The reimbursement of costs incurred by the Netherlands State or by third parties through the occupation of land belonging on 1 January 1963 to the Netherlands State, and in particular by reason of the cancellation of a long-term or other lease, on account of superficiary rights, or by reason of depreciation of unoccupied parts of a plot of land, damage caused by division of land, damage to buildings, loss of income, alterations in the event of replacement of buildings, reinvestment costs and the like, it being understood that no deduction shall be made in respect of the net market value of such land ;

(c) The reimbursement of costs incurred by the Netherlands State or by third parties through the execution in Netherlands territory of the works referred to in articles 3 and 4 for the purpose of removing, installing, repairing, replacing or shifting cables, culverts and other structures in or near the navigable waterway referred to in article 2 ;

(d) The reimbursement of the additional traction costs which are charged by N.V. Nederlandsche Spoorwegen in similar cases and which are due in the present instance to changes made in the existing permanent way in connexion with the railway bridge to be built over the system of locks referred to in article 3, paragraph 1, sub-paragraph (e) ;

(e) Compensation for which the Netherlands State is liable to third parties in respect of any other damage resulting from the execution of the works referred to in articles 3 and 4 ;

(f) The cost of expert opinions, laboratory tests and any other co-operation furnished by persons or services not under the jurisdiction of the Netherlands Ministry of Public Works ;

(g) Incidental costs relating to administration, the preparation of plans and of invitations for tenders, the supervision of work and the like.

Article 21

The two officials shall consult together, if either of them so requests, concerning the purchase prices, compensation and reimbursements referred to in article 20, sub-paragraphs (a), (b), (c), (d) and (e).

Article 22

In so far as the reimbursement referred to in article 20, sub-paragraphs (b) and (c), is due to the Netherlands State or to third parties whom the Netherlands State is not obliged to reimburse, it shall be fixed, subject to the provisions of article 21, by the Netherlands Minister in accordance with standards of equity and good administration.

Article 23

Where the costs referred to in article 20, sub-paragraph (g), are incurred by the Netherlands Ministry of Public Works they shall, for the purpose of determining the share payable by Belgium, be deemed to amount to 2 ½ per cent of all the other costs relating to the planning and execution of the works.

Article 24

1. The provisions of articles 6 to 12 inclusive and 19 to 23 inclusive shall also apply :

(a) To such of the ancillary works and arrangements referred to in article 3, paragraph 1, sub-paragraphs (h) and (i), and article 4, sub-paragraphs (c) and (d), as are found to be necessary or desirable only after the other works have been completed or brought into use ;

(b) To those special maintenance operations and measures which must be regarded as part of the execution of the works.

2. The provisions of paragraph 1 shall apply only to the extent that the works in question are found to be necessary or desirable within three years after the initial acceptance of the works which they are considered to continue or supplement.

Article 25

Belgium shall have no claim to ownership of the works executed in the past of those executed in accordance with the provisions of this Treaty, or to ownership of movable or immovable property purchased, expropriated or made available by the Netherlands Government with a view to the execution of such works.

Title VIII

PAYMENTS

Article 26

Those of the costs referred to in articles 19, 20 and 24 which relate to the planning and execution of works in Netherlands territory shall be advanced and, as necessary, paid direct to third parties by the Netherlands Government.

Article 27

1. Upon the expiry of each calendar month, the Netherlands Minister shall transmit to the Belgian Minister a statement of the Belgian share of the payments made during that month.

2. Compensation for the occupation of land, or for the use of materials, made available by the Netherlands Government shall, in so far as it is not paid to third parties, be included in the statement upon the expiry of the month during which the said land or materials were made available for the execution of the works.

Article 28

The costs referred to in article 20, sub-paragraph (g), shall be charged by increasing the amount of the monthly statements in accordance with the provisions of article 23.

Article 29

Belgium undertakes to make payment within six weeks after receipt of the statements referred to in article 28. Payment shall be made in guilders.

Article 30

1. If the Belgian Minister has any objection to the amounts shown in a statement, he shall so inform the Netherlands Minister before the expiry of the time-limit prescribed in article 29. In such event, the officials and, if necessary, the Ministers shall consult together concerning the said amounts as soon as possible.

2. Belgium undertakes to pay, as soon as possible after agreement has been reached, the amounts fixed during the consultations.

3. In respect of amounts to which no objection is raised within the prescribed time-limit, the provisions of article 29 shall apply without reservation.

Article 31

1. If the time-limit prescribed in article 29 is exceeded, Belgium shall be charged simple interest at the rate of 6 per cent per annum for the period of arrears.

2. In the case of amounts to which an objection has been raised under article 30, paragraph 1, such interest shall also be computed on the amounts fixed during the consultations provided for in that paragraph for the period exceeding the time-limit prescribed in article 29, that is to say, six weeks after receipt of the original statement.

CHAPTER C

STATUS OF THE CONNEXION BETWEEN THE SCHELDT
AND THE RHINE*Article 32*

The High Contracting Parties declare that such freedom of navigation and such right to receive, in matters of transport, treatment at least equal to national treatment as are guaranteed by the treaties in force at the time of signature of this Treaty shall also apply to the navigable waterway referred to in article 2.

Article 33

1. Belgium waives all claims to which it might be entitled under the treaties in force at the time of signature of this Treaty in respect of the

maintenance or quality of the navigable waterways connecting the Scheldt and the Rhine in Netherlands territory.

2. Considering, however, that, even after the navigable waterway referred to in article 2 has been brought into use, the connecting route now used by shipping through the South Beveland canal, the Eastern Scheldt, the Keeten, the Mastgat, the Zijpe and the Krammer will not be used solely by Netherlands inland shipping but will also continue to be significant for traffic in the territory of the Benelux Economic Union, the Netherlands shall not close the said connecting route to shipping or make major changes in its quality, if it should at any time contemplate doing so, without prior consultation with Belgium.

Article 34

1. The High Contracting Parties recognize in principle that a connecting route which is suitable for the vessels and trains of barges plying on the Waal and which is free-flowing between the Volkerak dam, now under construction, and the Waal should continue to be available to shipping between the northern outlet of the navigable waterway referred to in article 2 and the Waal.

2. To that end, the Netherlands shall ensure that at least one navigable waterway on the said connecting route meets the requirements laid down in the preceding paragraph, on the understanding that the right to designate a navigable waterway for this purpose shall be reserved to the Netherlands at all times.

Article 35

The High Contracting Parties are in agreement that the present state of the connecting route referred to in article 34, paragraph 1, meets the requirements therein laid down and that, consequently, that provision cannot be construed as placing the Netherlands under any obligation to alter the present state of the navigable waterways forming the said connecting route or of the engineering works thereon.

Article 36

Belgium declares that it has taken cognizance of the Netherlands plans to construct a dam with locks in the Volkerak and that, in the light of the arrangements provided for in this Treaty, it will raise no objection to the execution of those works. The High Contracting Parties are in agreement that the characteristics of the dam with locks to be constructed in the Volkerak in accordance with the Netherlands plans meet the requirements laid down in article 34, paragraph 1.

Article 37

1. If the Netherlands, having regard to the provisions of article 34, paragraph 2, should designate the Dordtse Kil, it shall ensure that the railway bridge over the Oude Maas at Dordrecht incorporates a movable member whose navigable span conforms as closely as possible to the standards generally recognized in international practice for movable bridges over similar waterways.

2. If, in the case referred to in the preceding paragraph, Belgium should request that the vertical clearance under a fixed member of the said railway bridge should be increased, the two Governments shall hold consultations on the matter. Such consultations shall cover *inter alia* the time and manner of execution of the works which the request involves and the apportionment of the cost of all the works to be carried out. If the said consultations do not lead to agreement, either of the High Contracting Parties may request the Arbitration Board to determine whether the change in vertical clearance desired by Belgium is reasonable, having regard *inter alia* to the cost of the works it would entail. If the Board answers the question in the affirmative it shall also, at the request of either of the High Contracting Parties, rule on all matters in dispute in connexion with the said change. In rendering its decision, the Board shall take into account all interests affected on either side.

Article 38

If the Netherlands undertakes the construction of works as a result of which a navigable waterway forming part of the connecting route referred to in article 34, paragraph 1, will cease to be free-flowing and it is impossible to designate any other existing waterway that meets the requirements laid down in that paragraph, the Netherlands shall ensure that the traffic capacity of the said works is at least equal to that of the Volkerak locks.

CHAPTER D

SUPPLEMENTARY PROVISIONS CONCERNING THE CONNEXION
BETWEEN THE SCHELDT AND THE RHINE

Title I

MISCELLANEOUS PROVISIONS

Article 39

1. If the Netherlands decides to dig a junction canal between the canal reach to the south of the system of locks referred to in article 3, paragraph 1, sub-paragraph (e), and the Western Scheldt, Belgium may request that the

said junction canal and its engineering works should be adapted to the requirements of pushed-barge traffic.

2. During the period between the entry into force of this Treaty and the date on which the navigable waterway referred to in article 2 is brought into use — or a later date to be fixed by agreement between the High Contracting Parties — Belgium may request that, in conjunction with the works referred to in articles 3 and 4, a junction canal suitable for pushed-barge traffic should be dug between the canal reach to the south of the system of locks referred to in article 3, paragraph 1, sub-paragraph (e), and the Western Scheldt and that the project should include the construction of a lock, holding basins and bridges.

3. After receipt by the Netherlands of a request as described in paragraph 1 or 2, the two Governments shall consult together concerning the works to be carried out and concerning the time and manner of their execution.

4. If the consultation referred to in the preceding paragraph does not lead to agreement, either of the High Contracting Parties may submit the questions in dispute, in so far as they do not relate to the apportionment of costs, to the Arbitration Board.

In rendering its decision, the Board shall take into account all interests affected by the junction canal.

5. If the Netherlands so requests, Belgium shall refund all costs relating to the works carried out in response to a request as described in paragraph 1 or 2.

Article 40

The Netherlands undertakes to reserve, next to the system of locks under construction in the Volkerak dam, the necessary land for a possible third lock and its access channels.

Article 41

As part of the general precautions against ice, the Netherlands shall take steps to prevent ice obstruction so far as possible on the navigable waterway referred to in article 2 and on the waterway connecting it with the Waal.

Title II

DISPUTES

Article 42

1. There shall be instituted an Arbitration Board whose function, to the exclusion of any other jurisdiction, shall be to rule in all disputes that may arise between the High Contracting Parties with regard to the interpretation or application of chapters B, C and D.

2. The Arbitration Board shall base its decisions on the provisions of this Treaty and the general rules of public international law. It shall, if need be, decide *ex aequo et bono* in the cases referred to in article 14, paragraph 2, article 16, paragraph 4, article 17, paragraph 3, article 37, paragraph 2, and article 39, paragraph 4, of this Treaty.

3. The composition, procedure and specific powers of the Arbitration Board shall be governed by annex III¹ to this Treaty.

CHAPTER E

SETTLEMENT OF ECONOMIC QUESTIONS

Article 43

The High Contracting Parties are in agreement that the provisions of the Treaty for the Union shall apply to the questions governed by this chapter and that the said questions shall be within the competence of the institutions of the Benelux Economic Union.

Article 44

1. All compensatory bounties and other measures of support for navigation on the navigable waterways between the Scheldt and the Rhine which are designed to promote transport to and from the seaports of either of the High Contracting Parties shall be abolished with effect from the date on which the navigable waterway referred to in article 2 is brought into use.

2. The High Contracting Parties shall not in any way replace, by adopting measures with similar effects, the compensatory bounties and other measures of support abolished under paragraph 1.

Article 45

Without prejudice to the provisions of article 44, the High Contracting Parties are in agreement that such subsidies or other measures of support as may be granted by the authorities in order to promote the construction or use of seaports shall not be permitted to distort the conditions of competition between their seaports.

Article 46

The two Governments shall exchange periodically, within the limits of their capacity, information relating to the application or effects of the preceding two articles.

¹ See p. 79 of this volume.

Article 47

At the request of either of the High Contracting Parties, the Committee of Ministers shall examine :

- (a) The economic consequences of the application of article 44 ;
- (b) Any distortion of the conditions of competition as described in article 45,

and on the basis of the results of such examination it shall, if need be, determine what measures shall be taken. Measures at variance with articles 44 and 45 of this Treaty shall not be taken except pursuant to article 14 of the Treaty for the Union.

Article 48

1. With effect from the date of the entry into force of this Treaty, no further increase shall be made in the compensatory bounties and other measures of support referred to in article 44 and no new compensatory bounties or other measures of support as described in the said article shall be instituted.

2. If, however, during the period between the entry into force of this Treaty and the date on which the navigable waterway referred to in article 2 is brought into use, navigation is seriously impeded by the Volkerak dam and locks or by the changes thereby produced in hydrographic conditions on the navigable waterways between the Scheldt and the Rhine, the Committee of Ministers shall consider whether any measures should be adopted to remedy the situation and, if so, what those measures should be.

CHAPTER F

FINAL PROVISIONS

Article 49

This Treaty shall be ratified and the instruments of ratification shall be exchanged at Brussels.

Article 50

This Treaty shall enter into force one month after the date of the exchange of the instruments of ratification. The provisions of article 33 shall not, however, enter into force until the date on which the navigable waterway referred to in article 2 is brought into use.

Article 51

On the date of the entry into force of this Treaty, the agreement concluded on 3 February 1958 ¹ by an exchange of letters between the Netherlands

¹ United Nations, *Treaty Series*, Vol. 381, p. 305.

and Belgian Governments concerning the question of the measures adopted in support of the Rhine bounties in Belgian maritime ports shall cease to have effect.

IN WITNESS WHEREOF the aforementioned plenipotentiaries have signed this Treaty and have thereto affixed their seals.

DONE at The Hague, on 13 May 1963, in duplicate in the Dutch and French languages, both texts being equally authentic.

For the Kingdom of the Netherlands : For the Kingdom of Belgium :

(Signed) J. DE QUAY
(Signed) J. LUNS

(Signed) T. LEFÈVRE
(Signed) H. FAYAT

ANNEX I

DETAILED DESCRIPTION OF THE WORKS REFERRED TO IN ARTICLES 3 AND 4

Ad article 3, paragraph 1

(a) *The canal from Antwerp harbour to the Eastern Scheldt*

The bed shall be laid out in accordance with the plan annexed to this Treaty (annex II).

The bottom shall be at a depth of at least 3.40 m — N.A.P. or (— 1.00) E.M. and the bottom width shall be 90 m. The slope of the banks shall be 1 : 3. In the curves, the bottom width shall be increased by $\frac{20,000}{R}$ m, where R is the radius of curvature of the axis of the canal, expressed in metres. A berm 40 m wide shall be constructed on the east side of the canal. Dikes reaching a height of at least 4.50 m + N.A.P. or (+ 6.90) E.M. at the crest and service roads with a carriageway 4.50 m wide shall be constructed along the canal.

(b) *The channel in the Eastern Scheldt*

The fairway shall be laid out in accordance with the plan annexed to this Treaty (annex II).

The bottom shall be at a depth of at least 7 m — N.A.P. or (— 4.60) E.M. and the bottom width shall be 150 m.

(c) *The Eendracht*

The bed of the Eendracht shall be corrected as indicated in the plan annexed to this Treaty (annex II). The exact form of the junction with the Eastern Scheldt shall be determined later.

During the first phase the cross-section shall be enlarged until the bottom is at a depth of at least 6 m — N.A.P. or (— 3.60) E.M. and the bottom width is at least 54 m.

In the curves, the bottom width shall be increased by $\frac{20,000}{R}$ m, where R is the radius of curvature of the axis of the navigable waterway, expressed in metres. The banks shall not, in general, be dredged to slope more steeply than 1 : 7. At certain places, however, the cross-section shall be given its final form immediately ; at these places the slope of the banks shall be 1 : 4.

(d) *The cut through the Slaak and the Prins Hendrikpolder*

The course shall be laid out in accordance with the plan annexed to this Treaty (annex II). The exact form of the Krabbenkreek-Eendracht fork and of the junction with the Krammer shall be determined later.

The bottom shall be at a depth of at least 6 m — N.A.P. or (— 3.60) E.M. and the bottom width shall be 90 m. The slope of the banks shall be 1 : 7. In the mud flats before the Prins Hendrikpolder, the cross-section of the channel shall be the same as that of the channel across the Eastern Scheldt.

(e) *The system of locks at the entrance to the Eastern Scheldt*

The system shall consist of two identical locks with the following dimensions :

Over-all useful length of chamber : 320 m

(The chambers shall be divided into two equal parts by intermediate gates).

Navigable width of chamber and gates : 24 m

Depth of outer sill : 6.25 m — N.A.P. or (— 3.85) E.M.

Depth of intermediate sill : 6.25 m — N.A.P. or (— 3.85) E.M.

Depth of inner sill : 3.40 m — N.A.P. or (— 1.00) E.M.

Water-retaining level of outer gates : 6.00 m + N.A.P. or (+ 8.40) E.M.

Water-retaining level of intermediate and inner gates : 4 m + N.A.P. or (+ 6.40) E.M.

In the layout of the system of locks, allowance shall be made for the construction of a third lock.

Holding basins with waiting berths shall be constructed on either side of the locks. These works and the jetties leading to the locks shall be designed with a view to pushed-barge traffic.

(f) *Bridges*

1. *Bridges over the Belgian section of the navigable waterway*

A road bridge and railway bridge shall be built over the Belgian section of the canal referred to in sub-paragraph (a) ; their exact sites shall be determined later. The said bridges shall be fixed bridges and shall have *inter alia* the following dimensions :

Navigable span : 110 m

Vertical clearance : 9.10 m

2. *Bridges over the Netherlands section of the navigable waterway*

Over the Netherlands section of the canal referred to in sub-paragraph (a) and over each of the sections of the navigable waterway which are referred to in sub-paragraphs (c) and (d), a road bridge shall be built on a site to be determined later. The said bridges shall be fixed bridges and shall have the following dimensions :

Navigable span : 110 m
Vertical clearance : 9.10 m
Width of carriageway : 7.50 m
Width of safety zones : 2×0.75 m
Width of cycle tracks : 2×2.50 m
Width of foot-paths : 2×1.50 m

In addition a fixed bridge for mixed traffic shall be built over the section of the navigable waterway referred to in sub-paragraph (c) to replace the existing ferry between Oud-Vossemeer and Nieuw-Vossemeer. The said bridge shall have the following dimensions :

Navigable span : 110 m
Vertical clearance : 9.10 m
Width of carriageway : 7.50 m
Width of foot-paths : 2×1.50 m

The approach ramps to the aforementioned bridges shall have a gradient of 1 : 50 and large radii of curvature in longitudinal profile. The existing road network shall be linked up with the bridges. The necessary underpasses shall be let into the approach ramps.

A railway bridge and a road bridge shall be built over the system of locks referred to in sub-paragraph (e). The said bridges shall be fixed bridges and shall have a vertical clearance of 9.10 m above the normal water-level of the canal referred to in sub-paragraph (a).

The railway bridge shall be a double-track bridge.

The road bridge shall have the following dimensions :

Width of carriageways : 2×7.25 m
Width of verges : 2×3 m
Width of slow-traffic lane : 5 m
Aggregate width of dividing strips, including safety zones : 7.50 m
Width of foot-paths : 2×1.50 m.

The approach ramps to the bridges shall have gradients of 1 : 200 (railway bridge) and 1 : 50 (road bridge) and large radii of curvature in longitudinal profile.

The necessary underpasses shall be let into the approach ramps.

(g) *Principal dikes*

1. *Principal dikes in Belgian territory*

The following measures shall be adopted in Belgian territory to improve the existing principal dikes :

From the Netherlands-Belgian frontier to a point 500 m north of the Zandvliet lock, the crest of the existing dike shall be raised to a level of 9 m + N.A.P. or (+ 11.40) E.M. and its width at the crest shall be increased to 2.50 m.

In the vicinity of the Zandvliet lock, over a distance of 500 m, the crest of the aforementioned dike shall descend to a level of 6.60 m + N.A.P. or (+ 9.00) E.M.

From the Zandvliet lock to the vicinity of the Royers lock, the land lying between the Scheldt and the harbour docks shall be raised, over a width of at least 67 m along the bank of the Scheldt, to the minimum level of 6.60 m + N.A.P. or (+ 9.00) E.M. This embankment shall be surmounted by a dike 3 m wide at the crest and reaching a level of at least 7.10 m + N.A.P. or (+ 9.50) E.M.

2. Principal dikes in Netherlands territory

A new high-water principal dike shall be constructed along the Western Scheldt, following the line shown in the plan annexed to this Treaty (annex II). The said dike shall have the following dimensions :

Crest height : 9 m + N.A.P. or (+ 11.40) E.M.

Crest width : 2.50 m

Outer slope : 1 : 4 with a berm 10 m wide at a mean level of 6.25 m + N.A.P. or (+ 8.65) E.M.

Inner slope : 1 : 3.

New dikes shall be constructed along the Eendracht at those places where such dikes are required by the corrections to be made in the bed. These sections of dike shall have the following dimensions :

Crest height : 6 m + N.A.P. or (+ 8.40) E.M.

Crest width : 2 m

Outer slope : 1 : 3

Inner slope : 1 : 3.

High-water principal dams shall be constructed along the cut through the Slaakdam and the Prins Hendrikpolder and shall have the following dimensions :

Crest height : 6 m + N.A.P. or (+ 8.40) E.M.

Crest width : 2 m

Outer slope : 1 : 3

Inner slope : 1 : 3.

(h) Water economy, including salinization and water pollution

In order to provide for the drainage of the polders, which would otherwise be disrupted by the excavation of the navigable waterway referred to in article 2, the following works *inter alia* shall be carried out :

A drainage ditch shall be dug along the east side of the canal referred to in sub-paragraph (a), shall be led through a culvert under the canal and shall extend as far as a sluice gate to be constructed on the Western Scheldt.

On the west side of the navigable waterway passing through the Eendracht, among the corrections to be made in the bed, a sluice gate shall be replaced by a new and equivalent discharge arrangement.

Drainage ditches shall be dug on either side of the cut through the Prins Hendrikpolder and linked by a culvert, unless other arrangements are made for drainage.

Arrangements shall be made as necessary in and near the system of locks referred to in sub-paragraph (e) to prevent salinization and pollution of the fresh-water basin which will be formed by the closure of the South Holland and Zeeland sea inlets.

(i) *Other works*

1. These works shall include *inter alia* the following :

The provision of lighting, signals and buoys for the navigable waterway and engineering works ;

The planting of vegetation on berms, banks and grounds ;

Measures to reconnect any roads, water conduits, cables and pipelines, overhead lines and connexions cut in the course of execution of the works ;

The construction of service quarters, work sheds, indoor storage facilities and all other buildings necessary for good management, and the establishment of outdoor storage depots and working areas, including storage space for spare lock-gates ;

The cutting of systems of channels in the tidal waters adjacent to the navigable waterway and the revetment of the banks alongside the said waters, to the extent that this is considered necessary or desirable, in connexion with or as a result of the construction of the said navigable waterway, from the standpoint of a good water economy.

2. High-tension and other lines laid across the navigable waterway shall be kept at least 33 m above the water-level of the canal referred to in sub-paragraph (a) or above mean high water in the Eastern Scheldt and the Eendracht.

3. Cables, conduits and culverts laid under the navigable waterway shall be buried at least 2 m deep.

Ad article 4

(a) *The dike in the Eastern Scheldt*

A parallel dike shall be constructed west of the channel across the Eastern Scheldt and shall have the following dimensions :

Crest height : 2 m + N.A.P. or (+ 4.40) E.M.

Crest width : 4 m.

A traffic outlet shall be left open opposite Bergen op Zoom.

(b) *The Eendracht*

With the exception of those sections which have been given their final form during the first phase, the Eendracht shall be further enlarged until at least the following dimensions have been attained :

Depth at bottom : 6 m — N.A.P. or (— 3.60) E.M.

Bottom width : 90 m

Slope of banks : 1 : 4

In the curves, the bottom width shall be increased by $\frac{20,000}{R}$ m, where R is the radius of curvature of the axis of the navigable waterway, expressed in metres.

ANNEX II

[See insert between pp. 82 and 83 of this volume.]

ANNEX III

COMPOSITION, PROCEDURE AND SPECIFIC POWERS OF THE ARBITRATION BOARD

Article 1

1. The Arbitration Board instituted by article 42 of this Treaty shall be composed of a permanent Chairman and two permanent members.

2. If the Chairman or one of the permanent members is unable to act, or in the event of his resignation or death, his functions shall be assumed by a deputy or an alternate.

Article 2

1. The High Contracting Parties shall, by agreement, appoint as Chairman and Deputy Chairman persons who satisfy the conditions laid down for tenure of the highest judicial offices in their own country or who are jurists of recognized competence in the field of international law.

2. The Chairman and Deputy Chairman shall not be nationals of either of the High Contracting Parties. They shall not have their habitual residence in the territory of either Party or be in the service of the Parties.

3. The terms of office of the Chairman and Deputy Chairman shall be five years except in the case of the first Deputy Chairman appointed after the entry into force of this Treaty, whose term of office shall be six years. Not later than three months before the expiry of the term of office of the Chairman or Deputy Chairman, the High Contracting Parties shall appoint a new Chairman or Deputy Chairman or shall extend by five years the term of office of the incumbent Chairman or Deputy Chairman.

4. In the event that

(a) The Chairman or Deputy Chairman informs the High Contracting Parties that he wishes to be relieved of his duties ;

(b) The Chairman or Deputy Chairman no longer satisfies one of the conditions laid down in paragraph 2 ; or

(c) The post of Chairman or Deputy Chairman falls prematurely vacant for any other reason, the High Contracting Parties shall as soon as possible appoint a new Chairman or Deputy Chairman to hold office for the remainder of his predecessor's term.

5. (a) If the High Contracting Parties fail to reach agreement, within three months after the entry into force of this Treaty, on the selection of a Chairman or Deputy Chairman, the President of the International Court of Justice may, at the

request of either or both of the High Contracting Parties, designate the Chairman or Deputy Chairman.

(b) If the President of the International Court of Justice is unable to act or is a national of one of the Parties, the designation may be made by the Vice-President or, if he too is unable to act or is a national of one of the Parties, by the senior member of the International Court of Justice who is not a national of either Party.

(c) The provisions of sub-paragraphs (a) and (b) of this paragraph shall also apply if the office of Chairman or Deputy Chairman falls vacant and the High Contracting Parties cannot agree on the selection of a successor.

Article 3

1. Each of the High Contracting Parties shall appoint one permanent member and one alternate. The provisions of article 2, paragraphs 3 and 4, shall apply *mutatis mutandis* to their terms of office.

2. If one of the Parties fails to appoint a permanent member and an alternate within three months after the entry into force of this Treaty, the other Party may request the President of the International Court of Justice to make the designation; the provisions of article 2, paragraph 5, sub-paragraph (b), shall apply *mutatis mutandis*.

3. The provisions of paragraph 2 shall also apply if the office of a permanent member or an alternate falls vacant and the Party concerned fails to appoint a successor within three months.

Article 4

The Arbitration Board itself shall determine where its meetings are to be held.

Article 5

1. Disputes as described in article 42 of this Treaty may be brought before the Arbitration Board either in virtue of a special agreement between the High Contracting Parties or upon the application of either of them.

2. The special agreement or application shall give an account of the subject-matter of the dispute and shall be addressed to the Chairman. In the case of an application, a duplicate thereof shall be addressed to the other Party at the same time.

Article 6

The Arbitration Board may, at any stage of the proceedings, propose an amicable settlement to the Parties.

Article 7

At any stage of the proceedings the Arbitration Board may, after hearing the Parties, prescribe such measures of conservation as it considers necessary or may modify or set aside measures of conservation already prescribed or confirmed. Such measures shall not prejudice the final decision.

Article 8

Articles 60 to 82 inclusive of the Convention for the Pacific Settlement of International Disputes, signed at The Hague on 18 October 1907,¹ shall apply *mutatis mutandis* to the procedure of the Arbitration Board.

Article 9

The costs of the Arbitration Board shall be apportioned equally between the High Contracting Parties. Each Party shall bear the costs of its representation in proceedings.

¹ James Brown Scott, *The Hague Peace Conferences of 1899 and 1907*, Vol. II, p. 309.