CONVENȚIA CU PRIVIRE LA CREAREA CONSILIULUI COLABORĂRII VAMALE*

ADOPTATĂ LA BRUXELLES LA 15 DECEMBRIE 1950

CONVENTION ESTABLISHING A CUSTOMS CO-OPERATION COUNCIL

DONE AT BRUSSELS ON DECEMBER 15, 1950

* *În vigoare pentru Republica Moldova din 28 octombrie 1994*

THE GOVERNMENTS SIGNATORY TO THE PRESENT CONVENTION,

CONSIDERING it advisable to secure the highest degree of harmony and uniformity in their customs systems and especially to study the problems inherent in the development and improvement of customs technique and customs legislation in connection therewith,

CONVINCED that it will be in the interests of international trade to promote co-operation between Governments in these matters, bearing in mind the economic and technical factors involved therein,

HAVE AGREED as follows:

Article 1

A Customs Co-operation Council (hereinafter referred to as "the Council") is hereby set up.

Article 2

(a) The Members of the Council shall be:

(i) the Contracting Parties to the present Convention;

(ii) the Government of any separate customs territory which is proposed by a Contracting Party having responsibility for the formal conduct of its diplomatic relations, which is autonomous in the conduct of its external commercial relations and whose admission as a separate Member is approved by the Council.

(b) Any Government of a separate customs territory, which is a Member of the Council under paragraph (a)*(ii)* above, shall cease to be a Member on notification to the Council of the withdrawal of its membership by the Contracting Party having responsibility for the formal conduct of its diplomatic relations.

(c) Each Member shall nominate one delegate and one or more alternates to be its representatives on the Council. These representatives may be assisted by advisers.

(d) The Council may admit representatives of non-member Governments or of international organisations in the capacity of observers.

Article 3

The functions of the Council shall be:

(a) to study all questions relating to co-operation in customs matters

which the Contracting Parties agree to promote in conformity with the general purposes of the present Convention;

(b) to examine the technical aspects, as well as the economic factors related thereto, of customs systems with a view to proposing to its Members practical means of attaining the highest possible degree of harmony and uniformity;

(c) to prepare draft Conventions and amendments to Conventions and to recommend their adoption by interested Governments;

(d) to make recommendations to ensure the uniform interpretation and application of the Conventions concluded as a result of its work as well as those concerning the Nomenclature for the Classification of Goods in Customs Tariffs and the Valuation of Goods for Customs Purposes prepared by the European Customs Union Study Group and, to this end, to perform such functions as may be expressly assigned to it in those Conventions in accordance with the provisions thereof;

(e) to make recommendations, in a conciliatory capacity, for the settlement of disputes concerning the interpretation or application of the Conventions referred to in paragraph (d) above in accordance with the provisions of those Conventions; the parties in dispute may agree in advance to accept the recommendations of the Council as binding;

(f) to ensure the circulation of information regarding customs regulations and procedures;

(g) on its own initiative or on request, to furnish to interested Governments information or advice on customs matters within the general purposes of the present Convention and to make recommendations thereon;

(h) to co-operate with other inter-governmental organisations as regards matters within its competence.

Article 4

The Members of the Council shall supply to the Council any information and documentation requested by it which is necessary for the execution of its functions provided that no Member shall be required to divulge confidential information, the disclosure of which would impede the enforcement of its laws, or which would otherwise be contrary to the public interest or prejudice the legitimate commercial interests of any enterprise, public or private.

Article 5

The Council shall be assisted by a Permanent Technical Committee and a General Secretariat.

Article 6

(a) The Council shall elect annually, from among the delegates of Members, a Chairman and not less than two Vice-Chairmen.

(b) It shall establish its own Rules of Procedure by a majority of not less than two-thirds of its Members.

(c) It shall establish a Nomenclature Committee as provided in the Convention on Nomenclature for the Classification of Goods in Customs Tariffs and a Valuation Committee as provided in the Convention on the Valuation of Goods for Customs Purposes. It shall also establish such other committees as may be desirable for the purposes of the Conventions referred to in Article III(d) or for any other purpose within its competence.

(d) It shall determine the tasks to be assigned to the Permanent Technical Committee and the powers to be delegated to it.

(e) It shall approve its annual budget, control its expenditure and give such directions as it may consider desirable regarding its finances to the General Secretariat.

Article 7

(a) The headquarters of the Council shall be in Brussels.

(b) The Council, the Permanent Technical Committee and any committees established by the Council may meet elsewhere than at the headquarters of the Council, if the Council so decides.

(c) The Council shall meet at least twice a year. Its first meeting shall take place not later than three months after the entry into force of the present Convention.

Article 8

(a) Each Member of the Council shall have one vote except that a Member shall not have a vote on any question relating to the interpretation, application or amendment of any of the Conventions referred to in Article 3(d) which is in force and which does not apply to that Member.

(b) Except as provided in Article 6(b) the decisions of the Council shall be taken by a majority of two-thirds of the Members present and entitled to vote. The Council shall not take a decision on any matter unless more than half of the Members entitled to vote on that matter are present.

Article 9

(a) The Council shall establish such relations with the United Nations, its

principal organs, subsidiary bodies and specialised agencies, and any other inter-governmental organisations, as may best assure collaboration in the achievement of their respective tasks.

(b) The Council may make arrangements necessary to facilitate consultation and co-operation with non-governmental organisations interested in matters within its competence.

Article 10

(a) The Permanent Technical Committee shall be composed of representatives of the Members of the Council. Each Member of the Council may nominate one delegate and one or more alternates to be its representatives on the Committee. Representatives shall be officials specialised in technical customs matters. They may be assisted by experts.

(b) The Permanent Technical Committee shall meet not less than four times a year.

Article 11

(a) The Council shall appoint a Secretary General and a Deputy Secretary General whose functions, duties, conditions of service and terms of office shall be determined by the Council.

(b) The Secretary General shall appoint the staff of the General Secretariat. The establishment and staff regulations shall be approved by the Council.

Article 12

(a) Each Member shall bear the expenses of its own delegation to the Council, to the Permanent Technical Committee and to any committees of the Council.

(b) The expenses of the Council shall be borne by its Members in accordance with a scale to be determined by the Council.

(c) The Council may deprive of its voting rights any Member which does not pay its contribution within three months of being notified of the amount thereof.

(d) Each Member shall pay its full annual contribution for the financial year during which it becomes a Member of the Council and for the financial year during which its notice of withdrawal becomes effective

Article 13

(a) The Council shall enjoy, in the territory of each of its Members, such

legal capacity, as defined in the Annex to the present Convention, as may be necessary for the exercise of its functions.

(b) The Council, the representatives of Members, the advisers and experts appointed to assist them, and the officials of the Council shall enjoy the privileges and immunities specified in the Annex to the present Convention.

(c) The Annex to the present Convention shall form an integral part thereof, and any reference to the Convention shall be deemed to include a reference to the Annex.

Article 14

The Contracting Parties accept the provisions of the Protocol concerning the European Customs Union Study Group opened for signature at Brussels on the same date as the present Convention. In determining the scale of contributions provided for in Article 12(b), the Council shall take into consideration membership of the Study Group.

Article 15

The present Convention shall be open for signature until 31 March 1951.

Article 16

(a) The present Convention shall be subject to ratification.

(b) Instruments of ratification shall be deposited with the Belgian Ministry of Foreign Affairs, which shall notify all signatory and acceding Governments and the Secretary General of each such deposit.

Article 17

(a) When instruments of ratification have been deposited by seven of the signatory Governments, the present Convention shall come into force between them.

(b) For each signatory Government ratifying thereafter the present Convention shall come into force upon deposit of its instrument of ratification.

Article 18

(a) The Government of any State which is not a signatory to the present Convention may accede thereto as from 1 April 1951.

(b) Instruments of accession shall be deposited with the Belgian Ministry of Foreign Affairs, which shall notify all signatory and acceding Governments and the Secretary General of each such deposit.

(c) The present Convention shall come into force for any acceding Gov-

ernment on the deposit of its instrument of accession, but not before it comes into force in accordance with paragraph (a) of Article 17.

Article 19

The present Convention is of unlimited duration, but at any time after the expiry of five years from its entry into force under paragraph (a) of Article 17, any Contracting Party may withdraw therefrom. Withdrawal shall take effect one year after the date of receipt by the Belgian Ministry of Foreign Affairs of the notification of withdrawal. The Belgian Ministry of Foreign Affairs shall notify each withdrawal to all signatory and acceding Governments and to the Secretary General.

Article 20

(a) The Council may recommend amendments to the present Convention to the Contracting Parties.

(b) Any Contracting Party accepting an amendment shall notify the Belgian Ministry of Foreign Affairs in writing of its acceptance and the Belgian Ministry of Foreign Affairs shall notify all signatory and acceding Governments and the Secretary General of the receipt of the notice of acceptance.

(c) An amendment shall come into force three months after receipt by the Belgian Ministry of Foreign Affairs of notice of acceptance by all the Contracting Parties. When any amendment has been accepted by all the Contracting Parties the Belgian Ministry of Foreign Affairs shall notify all signatory and acceding Governments and the Secretary General of such acceptance and of the date on which the amendment will come into force.

(d) After an amendment has come into force, no Government may ratify or accede to the present Convention unless it also accepts the amendment.

IN WITNESS WHEREOF the undersigned, having been duly authorised thereto by their respective Governments, have signed the present Convention.

DONE at Brussels on the fifteenth day of December, nineteen hundred and fifty (15 December 1950) in the English and French languages, both texts being equally authentic, in a single original, which shall be deposited in the archives of the Government of Belgium which shall transmit certified copies thereof to each signatory and acceding Government.

LEGAL CAPACITY, PRIVILEGES AND IMMUNITIES OF THE COUNCIL

Article 1
Definitions

Section 1

In this Annex:

(i) For the purposes of Article III, the words "property and assets" shall also include property and funds administered by the Council in furtherance of its constitutional functions;

(ii) For the purposes of Article V, the expression "representatives of Members" shall be deemed to include all representatives, alternates, advisers, technical experts and secretaries of delegations.

Article 2
Juridical personality

Section 2

The Council shall possess juridical personality. It shall have the capacity:

(a) to contract,

(b) to acquire and dispose of immovable and movable property,

(c) to institute legal proceedings.

In these matters the Secretary General shall act on behalf of the Council.

Article 3
Property, funds and assets

Section 3

The Council, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 4

The premises of the Council shall be inviolable.

The property and assets of the Council, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 5

The archives of the Council and in general all documents belonging to it or held by it, shall be inviolable, wherever located.

Section 6

Without being restricted by financial controls, regulations or moratoria of any kind:

(a) the Council may hold currency of any kind and operate accounts in any currency;

(b) the Council may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency.

Section 7

The Council shall, in exercising its rights under section 6 above, pay due regard to any representations made by any of its Members and shall give effect to such representations in so far as it considers that this can be done without detriment to the interests of the Council.

Section 8

The Council, its assets, income and other property shall be:

(a) exempt from all direct taxes; it is understood, however, that the Council will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Council for its official use; it is understood, however, that articles imported under such exemption will not be sold in the country into which they are imported, except under conditions agreed by the Government of that country;

(c) exempt from all customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Section 9

While the Council will not, as a general rule, claim exemption from

excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Council is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members of the Council will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 4

Facilities in respect of communications

Section 10

The Council shall enjoy, in the territory of each of its Members, for its official communications, treatment not less favourable than that accorded by that Member to any other Government including the latter's diplomatic mission, in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

Section 11

No censorship shall be applied to the official correspondence and other official communications of the Council.

Nothing in this section shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between the Council and any of its Members.

Article V

Representatives of Members

Section 12

Representatives of Members at meetings of the Council, the Permanent Technical Committee and committees of the Council shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of their personal baggage, and in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

(b) inviolability for all papers and documents;

(c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) exemption in respect of themselves and their spouses from immigration restrictions or aliens' registration in the State which they are visiting or through which they are passing in the exercise of their functions;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions.

Section 13

In order to secure for the representatives of Members at meetings of the Council, the Permanent Technical Committee and committees of the Council complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

Section 14

Privileges and immunities are accorded to the representatives of Members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the Council. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

Section 15

The provisions of sections 12 and 13 are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative.

Article 6

Officials of the Council

Section 16

The Council will specify the categories of officials to which this Article shall apply. The Secretary General shall communicate to the Members of the Council the names of the officials included in these categories.

Section 17

Officials of the Council shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity and within the limits of their authority;

(b) be exempt from taxation in respect of the salaries and emoluments paid to them by the Council;

(c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(d) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;

(e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as officials of comparable rank of diplomatic missions;

(f) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question, and to return such furniture and effects free of duty to their country of domicile on the termination of their functions.

Section 18

In addition to the privileges and immunities specified in section 17, the Secretary General of the Council shall be accorded in respect of himself, his spouse and children under the age of 21, the privileges, immunities, exemptions and facilities accorded to heads of diplomatic missions in conformity with international law.

The Deputy Secretary General shall enjoy the privileges, immunities, exemptions and facilities accorded to diplomatic representatives of comparable rank.

Section 19

Privileges and immunities are granted to officials in the interests of the Council only and not for the personal benefit of the individuals themselves. The Secretary General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Council. In the case of the Secretary General, the Council shall have the right to waive the immunity.

Article 7

Experts on missions for the Council.

Section 20

Experts (other than officials coming within the scope of Article 6) performing missions for the Council, shall be accorded such privileges, immunities and facilities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their baggage;

(b) in respect of words spoken or written or things done by them in the performance of their mission and within the limits of their authority, immunity from legal process of every kind;

(c) inviolability for all papers and documents.

Section 21

Privileges, immunities and facilities are granted to experts in the interests of the Council and not for the personal benefit of the individual concerned. The Secretary General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Council.

Article 8

Abuses of privileges

Section 22

Representatives of Members at meetings of the Council, the Permanent Technical Committee and committees of the Council, while exercising their functions and during their journeys to and from the place of meeting, and officials within the meaning of section 16 and section 20, shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the Government of that country provided that:

(i) Representatives of Members of the Council, or persons who are entitled to diplomatic immunity under section 18, shall not be required

to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to that country.

(ii) In the case of an official to whom section 18 is not applicable, no order to leave the country shall be issued other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the Secretary General of the Council; and if expulsion proceedings are taken against an official, the Secretary General of the Council shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

Section 23

The Secretary General shall co-operate at all times with the appropriate authorities of Members of the Council to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuses in connexion with the privileges, immunities and facilities enumerated in the present Annex.

Article 9

Settlement of disputes

Section 24

The Council shall make provision for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private character to which the Council is a party;

(b) disputes involving any official of the Council who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Sections 19 and 21.

Article 10

Supplementary agreements

Section 25

The Council may conclude with any Contracting Party or Contracting Parties supplementary agreements adjusting the provisions of the present Annex so far as that Contracting Party or those Contracting Parties are concerned.