

CONVENTION ON THE CONTROL AND MARKING OF ARTICLES OF PRECIOUS METALS

(without Annexes)

Consolidated text

(Agreed by the Standing Committee on 9 January 2001)

PREAMBLE

The Republic of Austria, the Republic of Finland, the Kingdom of Norway, the Portuguese Republic, the Kingdom of Sweden, the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland*;

Desiring to facilitate international trade in articles of precious metals while at the same time maintaining consumer protection justified by the particular nature of these articles;

Considering that the international harmonisation of standards and technical regulations and guidelines for methods and procedures for the control and marking of precious metal articles is a valuable contribution to the free movement of such products;

Considering that this harmonisation should be supplemented by mutual recognition of control and marking and desiring therefore to promote and maintain co-operation between their assay offices and concerned authorities;

Having regard to the fact that compulsory hallmarking is not required from the Contracting States to the Convention and that the marking of articles of precious metals with the Convention marks is carried out on a voluntary basis;

Have agreed as follows:

I Scope and Operation

ARTICLE 1

1. Articles controlled and marked by an authorised assay office in accordance with the provisions of this Convention shall not be submitted to further compulsory assaying or marking in an importing Contracting State. This does not prevent an importing Contracting State from carrying out check tests in accordance with Article 6.

2. Nothing in this Convention shall require a Contracting State to allow the importation or sale of articles of precious metals which are not defined in its national legislation or do not comply with its national standards of fineness.

ARTICLE 2

For the purposes of this Convention „articles of precious metals“ means articles of platinum, gold, palladium, silver, or alloys thereof, as defined in Annex I.

ARTICLE 3

1. In order to benefit from the provisions of Article 1, articles of precious metals must:

- (a) be submitted to an authorised assay office appointed in accordance with Article 5;
- (b) fulfil the technical requirements of this Convention as laid down in Annex I;
- (c) be controlled in accordance with the rules and procedures laid down in Annex II;
- (d) be marked with the marks as prescribed in Annex II.

2. The benefits of Article 1 shall not be applicable to articles of precious metals which, after being marked as prescribed in Annex II, have had any of these marks altered or obliterated.

ARTICLE 4

The Contracting States shall not be obliged to apply the provisions of paragraph 1 of Article 1 to articles of precious metals which, since being submitted to an authorised assay office, and controlled and marked as prescribed in Article 3, have been altered by addition or in any other manner.

* The following States have acceded to the Convention: Ireland (8.11.1983), Denmark (17.01.1988), Czech Republic (2.11.1994) and the Netherlands (16.07.1999).

II Control and Sanctions

ARTICLE 5

1. Each Contracting State shall appoint one or more authorised assay offices for the control and marking of articles of precious metals as provided for in Annex II.

2. The authorised assay offices shall satisfy the following conditions:

- availability of staff and of the necessary means and equipment;
- technical competence and professional integrity of the staff;
- in carrying out the requirements of the Convention, the management and technical staff of the authorised assay office must be independent of all circles, grouping or persons with direct or indirect interest in the area concerned;
- staff must be bound by professional secrecy.

3. Each Contracting State shall notify the depositary of the appointment of such assay offices and of their marks and any withdrawal of this authorisation from any assay office previously appointed. The depositary shall immediately notify all other Contracting States accordingly.

ARTICLE 6

The provisions of this Convention shall not prevent a Contracting State from carrying out check tests on articles of precious metals bearing the marks provided for in this Convention. Such tests shall not be carried out in such a way as to hamper unduly the importation or sale of articles of precious metals marked in conformity with the provisions of this Convention.

ARTICLE 7

The Contracting States hereby empower the depositary to register with the World Intellectual Property Organisation (WIPO), in accordance with the Convention of Paris for the Protection of Industrial Property, the Common Control Mark described in Annex II as a national hallmark of each Contracting State. The depositary shall also do so in the case of a Contracting State in relation to which this Convention enters into force at a later date or in the case of an acceding State.

ARTICLE 8

1. Each Contracting State shall have and maintain legislation prohibiting, subject to penalties, any forgery, unauthorised alteration or misuse of the Common Control Mark or of the marks of the authorised assay offices which have been notified in accordance with paragraph 3 of Article 5, and any unauthorised alteration to the article or alteration or obliteration of the fineness mark or responsibility mark after the Common Control Mark has been applied.

2. Each Contracting State undertakes to institute proceedings under such legislation when sufficient evidence of forgery or misuse of the Common Control Mark or marks of the authorised assay offices, or unauthorised alteration to the article or alteration or obliteration of the fineness mark or responsibility mark after the Common Control Mark has been applied is discovered or brought to its attention by another Contracting State or, where more appropriate, to take other suitable action.

ARTICLE 9

1. If an importing Contracting State or one of its authorised assay offices has reason to believe that an assay office in an exporting Contracting State has affixed the Common Control Mark without having complied with the relevant provisions of this Convention, the assay office by which the articles are purported to have been marked shall be immediately consulted and shall promptly lend all reasonable assistance for the investigation of the case. If no satisfactory settlement is reached, either of the parties may refer the case to the Standing Committee by notifying its Chairman. In such a case the Chairman shall convene a meeting of the Standing Committee.

2. If any matter has been referred to the Standing Committee under paragraph 1, the Standing Committee may, after having given an opportunity for the parties concerned to be heard, make recommendations as to the appropriate action to be taken.

3. If within a reasonable time a recommendation referred to in paragraph 2 has not been complied with, or the Standing Committee has failed to make any recommendation, the importing Contracting State may then introduce such additional surveillance of articles of precious metals marked by that particular assay office and entering its territory, as it considers necessary, including the right temporarily to refuse to accept such articles. Such measures shall immediately be notified to all Contracting States and shall be reviewed from time to time by the Standing Committee.

4. Where there is evidence of repeated and grave misapplication of the Common Control Mark the importing Contracting State may temporarily refuse to accept articles bearing the assay office mark of the assay office concerned whether or not controlled and marked in accordance with this Convention. In such a case the importing Contracting State shall immediately notify all other Contracting States and the Standing Committee shall meet within one month to consider the matter.

III Standing Committee and Amendments

ARTICLE 10

1. A Standing Committee is hereby established on which each Contracting State shall be represented. Each Contracting State shall have one vote.

2. The tasks of the Standing Committee shall be:

to consider and review the operation of this Convention;

to review and, where necessary, propose amendments to the Annexes to this Convention;

to take decisions on technical matters, as provided for in the Annexes;

to promote and maintain technical and administrative co-operation between the Contracting States in matters dealt with by this Convention;

to consider measures for securing uniform interpretation and application of the provisions of this Convention;

to encourage the adequate protection of the marks against forgery and misuse;

to make recommendations in the case of any matter referred to it under the provisions of paragraph 2 of Article 9, or for the settlement of any dispute arising out of the operation of this Convention which is presented to the Standing Committee;

to examine whether the arrangements of a State interested in acceding to this Convention comply with the conditions of the Convention and its Annexes and to make a report in that respect for consideration by the Contracting States.

3. The Standing Committee shall adopt rules of procedure for its meeting including rules for the convening of such meetings. This Committee shall meet at least once a year.

4. In accordance with paragraph 2 above, the Standing Committee shall take decisions on technical matters, as provided for in the Annexes, by unanimous vote.

5. The Standing Committee may make recommendations on any question relating to the implementation of this Convention or make proposals for the amendment of this Convention. Such recommendations or proposals shall be transmitted to the depositary which shall notify all Contracting States.

ARTICLE 11

Amendment to the Convention

1. In the case of a proposal received from the Standing Committee for the amendment of the Articles to the Convention, or in the case of a proposal for amendment of the Convention received from a Contracting State, the depositary shall submit such proposals for acceptance to all Contracting States.

2. If within three months from the date of the submission of a proposal for amendment under paragraph 1 a Contracting State requests that negotiations be opened on the proposal, the depositary shall arrange for such negotiations to be held.

3. Provided it is accepted by all Contracting States, an amendment to this Convention shall enter into force one month after deposit of the last instrument of acceptance unless another date is provided for in the amendment. Instruments of acceptance shall be deposited with the depositary which shall notify all Contracting States.

Amendment to the Annexes

4. In the case of a proposal made by the Standing Committee for amendment of the Annexes to the Convention, the depositary shall notify all Contracting States.

5. The amendment to the Annexes shall come into force six months after the date of notification by the depositary unless an objection has been received from the Government of a Contracting State or unless a later date for its entry into force has been provided for in the amendment.

IV Final Provisions

Accession

ARTICLE 12

1. Any State being a Member of the United Nations or of any of the specialised agencies or of the International Atomic Energy Agency or a Party to the Statute of the International Court of Justice and having arrangements for the assay and marking of articles of precious metals necessary to comply with the requirements of the Convention and its Annexes may, upon invitation of the Contracting States to be transmitted by the depositary, accede to this Convention.

2. The Governments of the Contracting States shall notify their reply to the depositary within four months after receipt of the request by the depositary asking them whether they agree to the invitation. Any Government not replying within that period shall be deemed to have consented to the invitation.

3. The Governments of the Contracting States shall base their decision whether to invite a State to accede primarily on the report referred to in paragraph 2 of Article 10.

4. The invited State may accede to this Convention by depositing an instrument of accession with the depositary which shall notify all other Contracting States. The accession shall become effective three months after deposit of that instrument.

ARTICLE 13

1. The Government of any signatory or acceding State may, when depositing its instrument of ratification or accession, or at any time thereafter, declare in writing to the depositary that this Convention shall apply to all or part of the territories, designated in the declaration, for the external relations of which it is responsible. The depositary shall communicate any such declaration to the Governments of all other Contracting States.

2. If the declaration was made at the time of the deposit of the instrument of ratification or accession this Convention shall enter into force in relation to those territories on the same date as the Convention enters into force in relation to the State having made the declaration. In all other cases the Convention shall enter into force in relation to those territories three months after the declaration has been received by the depositary.

3. The application of this Convention to all or part of such territories may be terminated by the Government of the State having made the declaration referred to in paragraph 1 provided that it gives three months' notice in writing to the depositary which shall notify all other Contracting States.

Withdrawal

ARTICLE 14

Any Contracting State may withdraw from this Convention provided that it gives twelve months' notice in writing to the depositary which shall notify all Contracting States, or on such other terms as may be agreed upon by the Contracting States. Each Contracting State undertakes that, in the event of its withdrawal from the Convention, it will cease after withdrawal to use or apply the Common Control Mark for any purpose.

Ratification

ARTICLE 15

1. This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the depositary which shall notify all other signatory States.

2. This Convention shall enter into force four months after deposit of the fourth instrument of ratification. In relation to any other signatory State depositing subsequently its instrument of ratification this Convention shall enter into force two months after the date of deposit but not before the expiry of the above-mentioned period of four months.

In witness thereof the undersigned, duly authorised thereto, have signed the present Convention.

Done in Vienna this 15th day of November 1972, in a single copy in the English and French languages, both texts being equally authentic, which shall be deposited with the Government of Sweden, by which certified copies shall be transmitted to all other signatory and acceding States.

Here follow the signatures of the representatives of Austria, Finland, Norway, Portugal, Sweden, Switzerland and the United Kingdom.

