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BENELUX ECONOMIC UNION — A NEW ROLE FOR THE TWENTY-FIRST CENTURY

M. Jeremy Walsh



Introduction

The Treaty of the Benelux Economic Union (BEU) has served as a quintessential example of international integration and collaboration since its chartering in 1958. A descendant agreement of the Benelux Customs Union of 1944, the BEU is a formal organization comprised of representatives from the Netherlands, Luxembourg, and Belgium. These representatives, structured in a hierarchal system of committees and groups, focus upon the coordination of general economic principles and policy among the three member nations. The current policies and issues under the BEU's purview range from business law to capital investment to the movement of people and goods. At its heart, the Union is a catalyst for the Benelux, allowing its member nations to enhance their financial and economic standing via intensive cross-border cooperation.

Having run the course of its initial chartering of fifty years, the Treaty establishing the BEU is scheduled for revision, renewal, or

revocation in 2010. This marks the first time since its signing that the member nations are in a position to significantly alter its original provisions. The numerous conferences, discussions, and meetings that have already taken place addressing this issue reflect its critical importance to the Benelux nations. Despite the sizable growth and increased effectiveness of the BEU in the last five decades, the reality is that a larger number of its competencies¹ have been supplanted by the European Union. These include the Treaty's two main provisions: the removal of international border restrictions and the expansion of a common market within the Benelux boundaries.

The Benelux Economic Union thus finds itself at a turning point in its history, as well

¹In the context of the BEU, "competencies" (or sometimes "competences") refer to policy areas in which the Union has a significant or expert amount of knowledge and experience. Having implemented standardized currency rates across the Benelux nations decades before the euro, for example, it could be said that one of the BEU's early competencies was policy relating to currency standardization.

as in the history of its member nations. Preliminary discussions on behalf of the Benelux countries have revealed that none of their three governments would like to see the Treaty terminated. (“The Future of the Benelux Cooperation . . . ,” p. 1) The question for the future of the organization therefore becomes one of identity and function. What specific role does this Union, a well-established entity that coordinates the efforts and policies of three highly developed nations, have in a centralizing twenty-first century Europe?

In this article I begin with a brief history of the Benelux Economic Union, including its original function and how this was affected by the formation of the European Union. I examine the possible avenues of cooperation that the BEU may explore in the coming years, depending on the changes to its Treaty in 2010. These include changes to the existing BEU infrastructure, extension of the Treaty’s provisions beyond Benelux borders, and the integration of political cooperation into the Treaty’s primary goals. Additionally, I analyze the role of the BEU as a “European Laboratory” by delving into potential new competencies, including those pertaining to prominent societal and geographic issues.

Brief History of the Benelux

The three nations comprising the Benelux — Belgium, Luxembourg, and the Netherlands — have shared close cultural, geographic, and societal ties for hundreds of years. Despite differences in political ideology and practice, their history is shaped by these ties, and often the three have been grouped together into a single conglomerate known as the “Low Countries.” The Kingdoms of the Netherlands and Belgium as we see them today were officially founded in 1839, following centuries of territorial wars between such factions as the Hapsburg Empire, the House of Orange, and various Austrian Kingdoms. (Janssen, pp. 3–4) The final development in the formation of the three nations was in 1890, when Adolf of Nassau assumed the title of Grand Duke of Luxembourg, a title previously held by the Dutch King. Thus with the turn of the twentieth century came the emergence of three geographically small but culturally distinct nation-states,

located precariously between the major European powers France and Germany.

This location in Europe would lead to physical destruction, economic stagnation, and great loss of life for the Benelux nations through World War I and World War II. It was in reaction to the significant devastation of the latter conflict that the first stirrings of the Benelux Economic Union emerged. In September 1944, the exiled governments of the Benelux nations began to construct plans for economic collaboration and mutual aid. These plans came to fruition in the Benelux Customs Union, a joint entity initially comprised of representatives from the Benelux nations aimed at both economic and political cooperation. Successes in various economic pursuits in the decade following the war, including the removal of internal trade boundaries and the coordination of external tariffs, eventually led to the signing of the Treaty of the Benelux Economic Union in 1958. This Treaty outlined the basic provisions of the three nations’ joint economic policies, the main goals of those policies, and how such coordination should be implemented. (Treaty Establishing the Benelux Economic Union, p. 2)

Current Function of the Benelux Economic Union

In the 50 years since the Treaty’s inception, the Benelux nations, the BEU, and Europe as a whole have been transformed. In its first decades, the BEU served as a revolutionary and ground-breaking catalyst for economic integration across international borders. Its member nations explored the benefit and proper execution of competencies, including free movement of people and goods, international banking and investment, corporate law, and civil rights. So effective was this implementation, and so influential the voice of the Benelux with regard to further integration, that many credit the BEU as the precursor of the European Coal and Steel Community. This organization would serve as the first step toward integration into the European Commission and, finally, the European Union.

It is because of these initial steps that many throughout Europe came to regard the Benelux and the BEU as the “Laboratory of Europe” mentioned earlier. The title refers to

the three nations' economic and social cooperation during the mid to late twentieth century. The "experimentation" by the BEU in the areas of economics and international discussion during that time period proved that an unprecedented level of collaboration was both possible and could be highly successful. Seeing the BEU put theory into effective action in the 1950s and '60s further eased the later transition of Europe from isolated nations into the modern-day EU. Benelux diplomats now argue that the BEU's current infrastructure and high level of development mean that its laboratory role could continue into new areas of experimentation. These would include new competencies not yet fully addressed by the EU, such as land use, pollution policy, and energy use, among others.

One of the biggest issues facing the current Benelux Economic Union is that its very success has led to most of its functions being transferred to the higher European level. As originally defined, the Treaty's provisions deal almost exclusively with joint economic policy. The majority of those policies have been adopted by the European Union, resulting in the supplanting of much of the BEU's purpose during the last decade. The European Commission Treaty expressly recognizes the Benelux Economic Union as a formal entity within the EU through Article 306. However, it also restricts the application of present-day BEU policy to those issues not covered by the EU. (Wouters and Vidal, pp. 5-7) The current functions of the BEU are, therefore, in need of greater expansion beyond their original economic purpose. The primary means of achieving this expansion is two-fold: the adaptation of the Treaty's goals and provisions, and their implementation through the existing BEU framework discussed below.

Current Form of the Benelux Economic Union

The Benelux Economic Union, as laid out in the original Treaty, is a structure made up of committees and subcommittees devoted to its various functions. At the head of the BEU is the Committee of Ministers, a corporate body comprised of at least three delegates from each member nation. The purposes of this Committee include directing the initiatives of

the Union itself and delegating tasks and assignments to the other BEU committees. It further works to establish collaborative policies without committing any Benelux nations to specific action prior to obtaining the assent of their governments. (Treaty Establishing the Benelux Economic Union, pp. 5-6)

In addition to the various subcommittees and delegations established on an *ad hoc* basis, the four main constituent committees of the BEU are the Council of the Economic Union, the General Secretariat, the Council of Justice, and the Office of Intellectual Property. The first of these is the most prominent within the original Treaty's framework. It is essentially second-in-command to the Committee of Ministers, oversees the activities of any economic *ad hoc* committee, and issues the directives that actually drive BEU action. The General Secretariat serves as the administrative and logistics network for the BEU, connecting together its member nations, diplomats, and various committees. The Council of Justice is an international dispute-settling forum in which citizens, groups, or government entities may file complaints and appeals with the Council in the interest of receiving fair judgment. Lastly, the Office of Intellectual Property is a body that seeks to make trademark and copyright protection uniform throughout the whole of the Benelux. (Treaty Establishing the Benelux . . . , pp. 2-13) It is through the evolution of these committees and the creation of new ones that the BEU has the greatest potential to redefine its role within the European Union by 2010.

Revisions of the Treaty

The first of the issues on the table for the renewal of the Treaty is a restructuring and refocusing of its inner workings. Any new provisions added to the Treaty itself will serve as the foundation for the remainder of the changes that the BEU may put into place in 2010. The most likely updates to the Treaty will therefore take two forms: the revision or removal of its existing provisions, and the development of additions that reflect the BEU's new functions. ("Benelux Revisited," p. 11) The reasoning behind the former set of expected changes is simply due to the outsourcing of the BEU's original core competencies. Since so many of its

current policies are now within the purview of the EU, it makes sense either to update certain articles to reflect this change in jurisdiction or to remove those articles altogether. Examples of articles that are most likely to experience change actually include some of the most revolutionary at the time of the BEU's inception, such as Articles II, III, and V. Taken together, these articles provided for the free movement of people, goods, and services across the Benelux nations' borders. Other less important articles have also been supplanted by the EU, including Articles XII through XIV relating to the use of standardized currency exchange rates. (Treaty Establishing the Benelux . . . , pp. 2–4) These became obsolete with the inception of the euro currency more than a decade ago.

While the above articles are those most likely to undergo revisions due to obsolescence, others may be reworked simply because they have diminished in relevance since 1958. One such example includes the reworking of Articles XXVIII and XXIX of the original Treaty. (Wouters and Vidal, p. 24) These articles outline the formation of many committees and subcommittees yet to be formally established at the time of the Treaty's signing. The list of these committees includes those pertaining to foreign relations, industry and trade, organization of statistics, and the monitoring of agriculture and food. Their competencies have since been assumed by other organizations within the BEU framework or are on the table to be formally reworked in the new BEU Treaty. In addition to their irrelevance in current BEU dealings, these articles' length and degree of detail also contribute to the likelihood of their removal.

Expanding the General Secretariat

In addition to the written changes to be made to the Treaty itself, another aspect of the changes to be made to the BEU infrastructure pertains to the growth of its organizational limits and jurisdictions. The most likely candidates for this reworking are first the General Secretariat, followed by possible changes to be made to the Benelux Court of Justice. The arguments for the changes to the General Secretariat are contingent upon its previous success in areas not explicitly provided for in the current BEU Treaty. These include the extension of its functionality

beyond the BEU border, and an increase in its role in facilitating the new competencies to be explored by the BEU following 2010.

The most recent example of the General Secretariat's crossing of the Benelux border was its serving as the Secretariat of the Schengen Treaty drafted in 1985. (Hitzberger, pp. 29–30) This Treaty served as one of the cornerstones of the modern EU framework by implementing the first large-scale increase in border-crossing freedom throughout the European continent. Its provisions included the use of a "Schengen Visa" to facilitate the movement of people, as well as the beginning of EU international police coordination. The administrative support offered by the Benelux General Secretariat during these discussions was similar to that which it offers to the Benelux nations during normal operations. This consisted of maintaining contacts and communications networks, facilitating meetings and scheduling, and the logistical organization of the negotiations and talks that led to the completion of the Treaty.

The success experienced by the General Secretariat at such a watershed in the EU's development has inspired some Benelux diplomats to suggest that this may be a possible avenue to greater BEU functionality in present-day Europe. The fact of the matter is that the BEU General Secretariat, operating on a comparatively small budget, represents one of the most well-established organizations in Europe devoted exclusively to moderating international discussion and policy creation. (Hitzberger, p. 42) This begs the question — does this work of moderation, backed by the Benelux's combined assets and high reputation, make for a realistic role that the Union can play in the future? More importantly, would this type of work violate the current EC Treaty that restricts the jurisdiction of the BEU to within its own borders? Supporters of the General Secretariat's possibly expanded role say that such would be acceptable so long as the organization's work would expedite and focus, rather than supplant, the discussions taking place across the grander scale of the EU. ("Benelux Revisited," p. 11)

Opponents to this type of expansion respond that the proposed continent-wide role of the BEU General Secretariat clearly encroaches upon an existing EU competency. The Secretariat-General of the European Com-

mission, for example, is a 600-member organization that performs much the same role by aiding in the day-to-day functionality of the EU and maintaining its communications network. (Secretariat-General of the European Commission) Additionally, the body works to guarantee the correct upholding of EU law and supports the Commission's proposals before the rest of the EU. Would it be possible, however, for the BEU General Secretariat to serve as a supplement, a second-in-command, in those cases where the BEU is known to specialize? Examples of such cases could include conflicts related to regions with developing nations or those areas into which the BEU is seeking to expand its competencies in the future.

In addition to expanding its role into a larger EU context, the General Secretariat may also change by extending its functionality into new proposed competencies to be added to the 2010 BEU Treaty. The success of these competencies, including coordinated energy use, environmental issues, and the possible expansion of the Benelux's goals outside its own borders, will be contingent upon the BEU being able to capitalize on its existing strengths. Facilitating international discussion, for example, is one of the key competencies of the Benelux, and it will only increase in importance with the possible shift of the Treaty's focus from economic issues to societal and geopolitical ones. As such, the movement of the General Secretariat into these areas will be of the utmost urgency if the newly proposed scale of the Benelux is to come into effect. (Janssen, pp. 43–45)

Expanding the Court of Justice

The other specific organization that may be part of the expansion of the BEU into EU dealings is the Benelux Court of Justice. This organization is an extension of the College of Arbitrators laid out in the original Treaty. (Treaty Establishing the Benelux . . . , pp. 10–12) It serves as a moderator of international disputes among both the citizenry and states of the three Benelux member nations. This ability to provide judgment and rulings on multiple levels of grievances — from the individual to the inter-governmental level — is the feature of this Court that members of the Benelux community feel would be most beneficial to the whole of the

EU. By serving as an informal international arbiter, the Court of Justice would offer itself primarily as a moderator for other groups of nations seeking to collaborate in a political form like the Benelux. This would enhance the BEU's continued non-economic function within Europe while also introducing its role as the laboratory of Europe. ("The Future of the Benelux Cooperation . . . , " p. 8) Specifically, this would allow the Benelux to share its collaborative efforts in legal disputes and political negotiation with those countries "newer" to the system. Examples include the Visegard (Poland, Czech Republic, Slovakia, Hungary) and Baltic (Estonia, Latvia, Lithuania) regions of Europe.

Benelux Political Union

It is well documented that the original framers of the Benelux Customs Union envisioned a two-sided collaboration. ("The Future of the Benelux Cooperation . . . , " pp. 6–7) On the one hand, the efforts of this Union would be devoted to discussing and coordinating economic policies among the three nations. The second part of this coordination, however, was to be political in nature. In order to ensure that the voices of the Benelux nations were heard in a diplomatically-strained post-war Europe, the founders of the Union sought to establish a strong foundation of political commonality among them. At their most optimistic level, they initially formed a customs union that would coordinate economic, social, and, to a lesser extent, political policy creation. This customs union, though, gradually became the economic union which developed into the foundations of the BEU ("Benelux Revisited," p. 4)

Despite the vision of the Benelux founders in the early to mid 1940s, those initial ambitions were not realized. The formal political cooperation of the Benelux Customs Union was initially very hopeful; for example, following WWII the three member states sent only one collective delegation to discuss the implementation of the Marshall Plan. (Janssen, pp. 35–36) A loss of political will and comparatively greater success in economic discussions eventually led to the dropping of the official political aspect of the Union entirely by the end of the 1950s. The removal of customs duties and trade quotas, founding of the General Secretariat, establish-

ment of a common Benelux tariff, and coordination of mutual trade policy during this time shaped the beginnings of the modern-day BEU.

The changes that have taken place throughout Europe since that time have caused an equally distinct change in the political interaction of the Benelux nations on the European level. The most obvious example of this is the region's behavior in proposing memoranda and voting within the European Union. Although it cannot be guaranteed, the three nations will frequently vote the same way in EU decisions so as to maximize the effectiveness of their collective 29 votes. (Hitzberger, pp. 48–49) This number gives the three nations identical voting power to that of a single "major" nation, such as France, Germany, Italy, or the United Kingdom. Other geographic regions within the European Union, such as the Visegrad countries, have actually requested to sit in on Benelux political discussions in order to improve their own ability to compromise and form a consistent voting bloc. ("Benelux Revisited," pp. 6–9)

In terms of issuing joint memoranda, the Benelux nations have addressed the European community with recommendations and advice for well over fifty years. One of the most prominent examples of this includes the 1955 memorandum to the European Coal and Steel Community. The message reinforced the importance of encouraging European economic integration during the second half of the twentieth century, specifically in the areas of nuclear power, cross-border trade, and open-market considerations. (Benelux Memorandum . . . , 1955) This memorandum is now credited with contributing to the formation of the European Economic Committee (EEC) in 1957. More recently, the Benelux nations released a memorandum in 2004 describing their views on the future of an enlarging and seemingly less effective EU. (Benelux Memorandum . . . , 2004)

Despite the informality of the Benelux political cooperation in the last four decades, it is clear that the three nations engage in a significant amount of discussion and coordination on a regular basis. This existing system of collaboration, taking the form of meetings by delegates prior to EU votes or debates, is the reason why some members of the Benelux community have suggested including formalized political

ties to the new BEU Treaty's policies. Even early discussions on the matter, though, have revealed the aversion of the Benelux nations to any type of mandatory political cooperation. That being the case, supporters of this change have proposed that formalized political cooperation not be compulsory but rather an open option to be utilized when appropriate. They argue that placing a formal political policy in the Treaty would establish regular meeting times regardless of EU activity, increase the cohesiveness of the Benelux governments, and tie together their mutual understanding of the issues at hand. ("The Future of the Benelux Cooperation . . . ," p. 7) Additionally, the organizer for this heightened level of collaboration would be the General Secretariat, serving to aid in networking and facilitating discussion.

Paradoxically, the most significant barrier to this political cooperation is a situation that also serves as one of the main motivations for implementing it. Throughout the life of the BEU, a significant political divide has existed between Belgium and the Netherlands on various issues. These have ranged from international disputes to the settling of inter-European affairs to the overall structure of the EU's organizations. This divide between the two nations has resulted in more than fifty years of frequent political disagreement despite effective economic collaboration. The Benelux bloc vote in the EU, although a useful tool, thus sometimes comes at a very high price in negotiating time and effort by the two nations. Among the most recent examples of dissension was the issue of large-scale immigration facing the whole of Europe. In a poll taken in 1994, Belgians were found to be more xenophobic, both culturally and politically, than their Dutch counterparts. (Eatwell, p. 47) By placing a structured political system within the BEU Treaty, the goal would be to promote mutual understanding on disagreements such as this through an increase in meetings and overall communication. (Janssen, pp. 46–47) An improvement in the political relationship between the Netherlands and Belgium only enhances the region's ability to function effectively, especially given the other proposed expansions and changes to the BEU in 2010. In short, if the Benelux nations seek the most influential BEU role possible in the greater European Union, a commitment

to this type of formal political unity may be absolutely necessary.

Benelux Plus

Another possibility for extension of the BEU Treaty is to adapt it to include regions that are geographically adjacent to the Benelux nations in a plan referred to as “Benelux Plus.” The reasoning behind the “Benelux Plus” proposal is that it will serve as another area for the BEU to move beyond its current provisions, the vast majority of which are solely economic in nature. Since the EU has rendered many of these economic functions moot, possible outlets for the BEU to expand its competencies include issues arising not from trade or goods, but from location. These are problems relating to the very space that the Benelux nations and their people occupy, involving constraints such as land use, energy use, environmental sustainability, pollution, and climate change. (“The Future of the Benelux Cooperation . . .,” p. 6) The solutions to these issues require the economic understanding of the BEU. They also, however, require that the BEU broaden its set of goals to include social concerns that are of growing importance within the EU.

The title “Benelux Plus” demonstrates the ultimate objective that this proposal hopes to accomplish: the extension of “local issue” policy coordination *throughout* the Benelux and *outside* the Benelux. The effects of this extension would be two-fold. First, it would serve as a prime example of action-oriented, cross-border cooperation on prominent global issues. (Hitzberger, p. 46) This is exactly the type of achievement that would benefit the BEU in defining its role within the modern-day EU. The achievement would display those key points that give the BEU its reputation today — advanced thinking, collaboration, and work toward effective execution. Secondly, this extension would allow the BEU to once again serve as an EU laboratory, but would involve its neighboring regions in the experimentation.

One of the most likely candidates to become a member of this “Benelux Plus” agreement is the German region of North Rhine-Westphalia. This is due to its geographic location, touching both the Netherlands to the Northwest and Belgium to the West. (Figure 1)

Support for this expansion of the BEU’s newly proposed policies into this German territory has been offered from a significant number of Benelux diplomats, including the Prime Minister of Luxembourg. (Wouters and Vidal, p. 26) The purpose of this policy is not wholly economic in its benefits, but would utilize cross-border cooperation for the optimal use of natural resources and the environment as stated above. Using joint efforts to coordinate power distribution, land use, and pollution control makes practical sense not just within a single nation’s boundaries but across national boundaries and in adjacent regions.

The main problem associated with this possible expansion of the BEU Treaty derives from the EC Treaty provision that defines the existence of the BEU organization within twenty-first century Europe. Article 306 of the latter Treaty expressly outlines the limitations of the BEU’s jurisdiction. Although the BEU may implement policy that is not presently addressed by EU precedent or in which the BEU is “more advanced” than that precedent, the BEU policy may only be applied to its original member nations. Thus, even if the addition of the “Benelux Plus” proposal were to be made to the BEU Treaty during its revision, in theory innovations could not be put into practice without violating Article 306 of the EC Treaty.

A possible solution would be to take advantage of a less formal partnership among the regions in question. This would be accomplished by utilizing German law that allows the nation’s various states to form “neighbor relationships” with adjacent nations or counties. (Wouters and Vidal, pp. 25–27) This law would allow the BEU and North Rhine-Westphalia to form an unofficial commission devoted to implementing the “Benelux Plus” agenda. In this case, the change to be made to the BEU Treaty would not have to allow for a formal extension of its provisions to a non-Benelux region. Instead, it would allow for the acceptance of German law as a basis for cooperation with geographically neighboring regions. Article 306 would remain inviolate, and the “Benelux Plus” policies could be organized with North Rhine-Westphalia. Should this agreement come to pass, it may then serve as the legal precedent for similar agreements with the other regions surrounding the Benelux.

Figure 1
North Rhine-Westphalia as a “Benelux Plus” Member



Source: European Chemical Regions Network.

Benelux into the Future

As the Benelux Economic Union approaches its 50th anniversary and the scheduled end of its founding Treaty, it is clear that its members face both a distinct challenge and a distinct opportunity. The economic effectiveness of the BEU and the precedents it has set serve as more than enough motivation for the member nations to push for its continuation. The difficulty comes, however, in choosing what direction this entity should now move in twenty-first century Europe. Its influence on the developing European Union has resulted in its own obsolescence within the last twenty years. The simple answer is that, in 2010, the BEU delegates should use their diplomatic experience, strong structure and foundation, and considerable assets to begin exploring new avenues and competencies. The question then becomes: what competencies and avenues should those be?

Even today, Europe continues to experience centralization through the development of the EU; this indicates that an effective BEU must

be one that adapts its work to fit inside that of the EU. Coordinated economic policy, the fundamental basis for its creation, must now be supplanted by projects and efforts that the rest of Europe has not yet implemented or done successfully. As Europe struggles with fuel costs, immigration issues, and increasing population density, for example, new possible areas of competency include energy generation, cross-border police cooperation, and land control. In order to be able to successfully handle these new competencies, it is also absolutely necessary that the BEU enhance and expand its own operating capabilities and committees. And finally, with that internal expansion, the organization should also work to establish itself in a political advising role throughout the EU, utilizing the BEU's experience in diplomatic affairs and cross-border policy to aid other nations seeking the same goals. The members of the Benelux have a unique chance before them to perpetuate their influential work in Europe. With proper restructuring of the BEU, they will continue to play an important role in 2010 and beyond.

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