

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2008 Nr. 127

A. TITEL

*Briefwisseling houdende een verdrag tussen het Koninkrijk der
Nederlanden en de Republiek Somalië betreffende de steun van
Nederlandse strijdkrachten bij de bescherming van humanitaire hulp
voor Somalië tegen piraterij
Nairobi, 1 april 2008*

B. TEKST

De Engelse tekst van het in de brieven vervatte verdrag is geplaatst in *Trb.* 2008, 85.

Voor het aanvullende, in brieven vervatte verdrag met de Comoren, zie ook *Trb.* 2008, 85.

De Spaanse tekst van het in brieven vervatte verdrag van 24 april 2008, in aanvulling op bovenstaand verdrag, tussen het Koninkrijk der Nederlanden en de Republiek Panama is geplaatst in *Trb.* 2008, 97.

De Engelse tekst van het in brieven vervatte verdrag van 8 mei 2008, in aanvulling op bovenstaand verdrag, tussen het Koninkrijk der Nederlanden en de Republiek Somalië is geplaatst in *Trb.* 2008, 104.

Op 30 mei 2008 is te Kingstown, in aanvulling op bovenstaand verdrag, eveneens bij briefwisseling een verdrag totstandgekomen tussen het Koninkrijk der Nederlanden en Sint Vincent en de Grenadines betreffende de steun van Nederlandse strijdkrachten bij de bescherming tegen piraterij van een schip onder de vlag van Sint Vincent en de Grenadines dat humanitaire hulp aan Somalië levert. De tekst van de brieven luidt als volgt:

Nr. I

ROYAL NETHERLANDS EMBASSY

Port of Spain, May 28, 2008

Ref. POR-116/08

Honourable Prime Minister,

Noting that the World Food Programme (WFP) is a key humanitarian actor in Somalia, to which it sends 80% of its assistance by sea;

Considering that the security of its vessels is of fundamental importance in this regard for the entire humanitarian community in Somalia;

Taking into consideration the statements of the President of the United Nations Security Council on 15 March 2006 in support of Resolution A.979 of the International Maritime Organization (IMO) dated 23 November 2005;

Conscious of the joint call made on 10 July 2007 by the IMO and the WFP for concerted international action to resolve the problem of piracy and armed robbery directed against ships in waters off the Somali coast;

Taking note of resolution 1772 (2007) of the United Nations Security Council, expressing its concern at the upsurge in piracy off the Somali coast, and the joint press release issued on 10 July 2007 by the International Maritime Organization and the World Food Programme;

Considering the persistent incidents of armed robbery committed in the territorial waters of Somalia, and responding to the request made by the Government of the Republic of Somalia and recent requests from the WFP, the Netherlands is willing to lend its support to the Somali government for the protection of WFP-contracted ships bound for Somalia;

I have the honour therefore, speaking on behalf of my Government, of making the following proposal to you:

– The present provisions have been defined to meet the needs of protection of World Food Programme-contracted ships in the territorial waters of Somalia and their application is limited to the period of the presence of Dutch Forces deployed in this connection on the territory of the Republic of Somalia.

– For the protection of the ships of the St. Vincent and the Grenadines, being the Flag State of the ships chartered by the World Food Programme, the Government of St. Vincent and the Grenadines, as Flag State:

a) in conjunction with the owners of the ships flying its flag, shall facilitate the embarkation of Dutch Forces on ships chartered by the World Food Programme;

b) in conjunction with the owners of the ships flying its flag, shall facilitate cooperation between the Dutch Forces, including those on board such ships, and the ship's crew;

c) shall authorise the Dutch Forces to take all necessary steps, including the proportionate use of force. In this connection, the Dutch Forces shall assess the correct match between the means to be employed and the manner in which they are to be employed, at whatever level.

– The Government of St. Vincent and the Grenadines, as Flag State, authorises the possession of weapons and munitions for security by Dutch military personnel present on board ships chartered by the World Food Programme and flying its flag.

– The Government of St. Vincent and the Grenadines, as Flag State, grants to Dutch military personnel present on board its WFP-contracted ships for the purpose of their protection, personal inviolability and immunity from legal proceedings in its criminal, civil and administrative courts, in addition to immunity from execution, in respect of acts done or anything omitted in their performance of their official duty.

– The Government of St. Vincent and the Grenadines, as Flag State, waives all rights of recourse against the Government of the Kingdom of the Netherlands in the event of prejudice caused to third parties and its nationals by Dutch Forces in the execution of their tasks. In the event of legal action instituted in connection with such prejudice, the Government of the Flag State shall stand in lieu of the Government of the Kingdom of the Netherlands in the proceeding. In all events, the Government of the Flag State shall pay any compensation due as redress for prejudice caused. If the latter is attributable to Dutch Forces alone in the course of the execution of their tasks, the Government of the Kingdom of the Netherlands shall refund the amount of the compensation to the Government of the Flag State. If both Governments are jointly responsible for the prejudice suffered by third parties, the amount of the compensation shall be shared equally between them.

– St. Vincent and the Grenadines, as Flag State, agrees to the handing over to the Somali authorities by Dutch Forces of all equipment confiscated from individuals having committed acts of armed robbery on board its ships, unless the Dutch authorities wish to proceed otherwise.

– St. Vincent and the Grenadines, as Flag State, agrees to the handing over to the Somali authorities by Dutch Forces of all individuals having committed acts of armed robbery on board its ships, unless the Dutch authorities wish to proceed otherwise.

1. In the event the Dutch Forces hand over individuals to St. Vincent and the Grenadines, the Netherlands make it a condition for such handing over of individuals to St. Vincent and the Grenadines, as Flag State, that the latter give assurances that in cases where capital punishment may be incurred, the death penalty will neither be sought nor applied to the individuals handed over.

2. The authorities of the St. Vincent and the Grenadines, as Flag State, undertake to ensure the transfer, guarding and safety of the individuals handed over by the Dutch authorities, abiding by applicable international law, and specifically international human rights law, assuring themselves that no individual handed over to them is subjected to torture or any other cruel, inhuman or degrading treatment.

– The death of any member of the personnel of Dutch Forces on board a ship of the Flag State shall be declared to the authorities of that State, which hereby agrees to hand over the body to the Dutch authorities without delay.

– Any dispute between the parties concerning the implementation or interpretation of the provisions hereof shall be settled exclusively by negotiation.

– The Government of St. Vincent and the Grenadines, as Flag State, and the Government of the Kingdom of the Netherlands may terminate this agreement in writing, giving a short period of advance notice.

Expiry of the present agreement shall not discharge the Parties of obligations created during its implementation.

The provisions contained in this exchange of letters may be communicated to any third State that should so request from either of the parties.

I should be grateful if you would inform me whether the provisions set out above meet with the approval of your Government. If this is the case, the present letter, and your reply, shall constitute the agreement entered into by our two Governments concerning the protection tasks to be performed by Dutch Forces with regard to World Food Programme-contracted ships on inbound or outbound journeys between the territorial waters of the last port of call and their entry into the port of destination in Somalia, and that agreement shall take effect on the date of your reply.

Please accept, Honourable Prime Minister, the assurances of my highest consideration.

For the Kingdom of the Netherlands,

ANDRÉ VERKADE
Chargé d'Affaires

*Dr. the Honourable Ralph E. Gonsalves
Prime Minister
Administrative Building
4th Floor / Bay Street
Kingstown
Saint Vincent and the Grenadines*

Nr. II

THE PRIME MINISTER
ST. VINCENT AND THE GRENADINES
WEST INDIES

Kingstown, May 30th, 2008

Excellency,

I wish to acknowledge receipt of correspondence of 28th May 2008, the text of which is as follows:

“Honourable Prime Minister,

Noting that the World Food Programme (WFP) is a key humanitarian actor in Somalia, to which it sends 80% of its assistance by sea;

Considering that the security of its vessels is of fundamental importance in this regard for the entire humanitarian community in Somalia;

Taking into consideration the statements of the President of the United Nations Security Council on 15 March 2006 in support of Resolution A.979 of the International Maritime Organization (IMO) dated 23 November 2005;

Conscious of the joint call made on 10 July 2007 by the IMO and the WFP for concerted international action to resolve the problem of piracy and armed robbery directed against ships in waters off the Somali coast;

Taking note of resolution 1772 (2007) of the United Nations Security Council, expressing its concern at the upsurge in piracy off the Somali coast, and the joint press release issued on 10 July 2007 by the International Maritime Organization and the World Food Programme;

Considering the persistent incidents of armed robbery committed in the territorial waters of Somalia, and responding to the request made by the Government of the Republic of Somalia and recent requests from the WFP, the Netherlands is willing to lend its support to the Somalia Government for the protection of WFP-contracted ships bound for Somalia;

I have the honour therefore, speaking on behalf of my Government, of making the following proposal to you:

– the present provisions have been defined to meet the needs of protection of World Food Programme-contracted ships in the territorial waters of Somalia and their application is limited to the period of the presence of Dutch Forces deployed in this connection on the territory of the Republic of Somalia.

– For the protection of the ships of Saint Vincent and Grenadines, being the Flag State of the ships chartered by the World Food Programme, the Government of Saint Vincent and Grenadines, as Flag State:

a) in conjunction with the owners of the ships flying its flag, shall facilitate the embarkation of Dutch Forces on ships chartered by the World Food Programme;

b) in conjunction with the owners of the ships flying its flag, shall facilitate cooperation between the Dutch Forces, including those on board such ships, and the ship's crew;

c) shall authorise the Dutch Forces to take all necessary steps, including the proportionate use of force. In this connection, the Dutch Forces shall assess the correct match between the means to be employed and the manner in which they are to be employed, at whatever level.

The Government of Saint Vincent and Grenadines, as Flag State, authorises the possession of weapons and munitions for security by Dutch military personnel present on board ships chartered by the World Food Programme and flying its flag.

– The Government of Saint Vincent and Grenadines, as Flag State, grants to Dutch military personnel present on board its WFP-contracted ships for the purpose of their protection, personal inviolability and immunity from legal proceedings in its criminal, civil and administrative courts, in addition to immunity from execution, in respect of acts done or anything omitted in the performance of their official duty.

– The Government of Saint Vincent and Grenadines, as Flag State, waives all rights of recourse against the Government of the Kingdom of

the Netherlands in the event of prejudice caused to third parties and its nationals by Dutch Forces in the execution of their tasks. In the event of legal action instituted in connection with such prejudice, the Government of the Flag State shall stand in lieu of the Government of the Kingdom of the Netherlands in the proceeding. In all events, the Government of the Flag State shall pay any compensation due as redress for prejudice caused. If the latter is attributable to Dutch Forces alone in the course of the execution of their tasks, the Government of the Kingdom of Netherlands shall refund the amount of the compensation to the Government of the Flag State. If both Governments are jointly responsible for the prejudice suffered by third parties, the amount of the compensation shall be shared equally between them.

– Saint Vincent and Grenadines, as Flag State, agrees to the handing over to the Somali authorities by Dutch Forces of all equipment confiscated from individuals having committed acts of armed robbery on board its ships, unless it wishes to proceed otherwise.

– Saint Vincent and Grenadines, as Flag State, agrees to the handing over to the Somali authorities by Dutch Forces of all individuals having committed acts of armed robbery on board its ships, unless the Dutch authorities wish to proceed otherwise.

1. In the event the Dutch Forces hand over individuals to Saint Vincent and Grenadines, the Netherlands make it a condition for such handing over of individual to Saint Vincent and the Grenadines, as Flag State, that the latter give assurances that in cases where capital punishment may be incurred, the death penalty will neither be sought nor applied to the individuals handed over.

2. The authorities of the Saint Vincent and Grenadines, as Flag State, undertake to ensure the transfer, guarding and safety of the individuals handed over by the Dutch authorities, abiding by applicable international law, and specifically international human rights law, assuring themselves that no individual handed over to them is subjected to torture or any other cruel, inhuman or degrading treatment.

– The death of any member of the personnel of Dutch Forces on board a ship of the Flag State shall be declared to the authorities of that State, which hereby agrees to hand over the body to the Dutch authorities without delay.

– Any dispute between the parties concerning the implementation or interpretation of the provisions hereof shall be settled exclusively by negotiation.

– The Government of Saint Vincent and Grenadines, as Flag State, and the Government of the Kingdom of the Netherlands may terminate this agreement in writing, giving a short period of advance notice.

Expiry of the present agreement shall not discharge the Parties of obligations created during its implementation.

The provisions contained in this exchange of letters may be communicated to any third State that should so request from either of the parties.

I should be grateful if you would inform me whether the provisions set out above meet with the approval of your Government. If this is the case, the present letter, and your reply, shall constitute the agreement entered into by our two Governments concerning the protection tasks to be performed by Dutch Forces with regard to World Food Programme-contracted ships on inbound or outbound journeys between the territorial waters of the last port of call and their entry into the port of destination in Somalia, and that agreement shall take effect on the date of your reply.

Please accept, Honourable Prime Minister, the assurances of my highest consideration.”

I have the honour to inform you of the agreement of my Government to the provisions set out above. Given this, the present agreement shall be in force from the date hereof.

Dr. the Honourable
RALPH GONSALVES
Prime Minister,
Minister of Finance, Economic
Planning, National Security, Legal
Affairs and Grenadines Affairs.

*H.E. Hans Horbach
Ambassador
Embassy of the Kingdom of the Netherlands
69-71 Edward St.
P.O. Box 870
Port of Spain
Trinidad & Tobago*

D. PARLEMENT

Zie *Trb.* 2008, 85, *Trb.* 2008, 97 en *Trb.* 2008, 104.

Het in de brieven vervatte verdrag van 30 mei 2008 behoeft ingevolge artikel 7, onderdeel c, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

Zie *Trb.* 2008, 85, *Trb.* 2008, 97 en *Trb.* 2008, 104.

De bepalingen van het in brieven vervatte verdrag met Sint Vincent en de Grenadines zijn ingevolge het gestelde in de op één na laatste alinea van brief Nr. I en de laatste alinea van brief Nr. II in werking getreden op 30 mei 2008.

Wat betreft het Koninkrijk der Nederlanden, geldt het in brieven vervatte verdrag alleen voor Nederland.

J. VERWIJZINGEN

Zie *Trb.* 2008, 85.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het in brieven vervatte verdrag met Sint Vincent en de Grenadines zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de zesentwintigste juni 2008.

De Minister van Buitenlandse Zaken,

M. J. M. VERHAGEN