

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2004 Nr. 5

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A. TITEL

*Briefwisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en de Noordatlantische Verdragsorganisatie betreffende de voorrechten en immuniteiten van de NATO Consultation, Command and Control Agency (NC3A);  
's-Gravenhage, 17 december 2003*

B. TEKST

Nr. I

MINISTER VAN BUITENLANDSE ZAKEN

The Hague, 17 December 2003

Dear Secretary General,

I have the honour to refer to the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff signed at Ottawa on 20 September 1951 (hereinafter called the Ottawa Agreement) and to the Agreement between the Parties of the North Atlantic Treaty regarding the status of their forces, signed in London on 19 June 1951 (hereinafter called the London Agreement).

Considering:

that in the context of the dissolution of NATO Communications and Information Systems Organisation (NACISO) and SHAPE Technical Center (STC) and the establishment of the NATO Consultation, Command and Control Organisation (hereinafter called NC3O) on 1st July 1996, the Netherlands Government has agreed to the establishment in The Netherlands of a part of the NC3O: the NATO Consultation, Command and Control Agency (NC3A) that represents the legal successor organisation of STC;

that the NC3O Charter (PO(96)99) foresees that the NATO Consultation, Command and Control Agency (NC3A) shall comprise a civilian and military element (hereinafter called NC3A personnel);

that the civilian personnel will be deemed to be NATO International Personnel and shall be covered by the Ottawa Agreement, and the military component will be deemed to be members of the International Military Staff and shall be covered by the London Agreement;

that the Netherlands Government is prepared to grant privileges and immunities to NC3A and its personnel in The Netherlands that are no less favourable than those previously granted to STC and with regard to the military component, than those granted to International Military Headquarters in the Netherlands.

Now therefore the Netherlands Government deems it desirable to formulate certain provisions together with you as a supplement to the Ottawa Agreement and to the London Agreement as applicable.

To this end I have the honour to propose the following provisions:

#### Article 1

##### *Exemption from taxes and duties*

1. Within the scope of its official activities, the NC3O, its assets, income and all other property shall be exempt from all direct taxes.

2. Within the scope of its official activities, the NC3O shall be exempt from the following indirect taxes:

- a) motor vehicle tax (motorrijtuigenbelasting);
- b) tax on passenger motor vehicles and motorcycles (belasting van personenauto's en motorrijwielen, BPM);
- c) value added tax which forms part of the price of goods purchased by and of services rendered to NC3O (omzetbelasting);
- d) excise duties (accijnzen) included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels and other taxes levied as excise duties;
- e) energy tax (REB, Regulerende Energie Belasting)
- f) import taxes and duties (rechten bij invoer en uitvoer);
- g) insurance tax (assurantiebelasting);
- h) real property transfer tax (overdrachtsbelasting);
- i) any other taxes and duties of a substantially similar character to the taxes and duties provided for in this paragraph, imposed by the Netherlands subsequently to the date of this letter.

These exemptions will be granted under the principles applicable to former STC.

Goods acquired or imported under the terms set out in this provision shall be sold, given away or otherwise disposed of in accordance with conditions agreed upon with the Netherlands Government and/or in accordance with NATO provisions.

#### Article 2

##### *Privileges and immunities of the General Manager, the Deputy and the staff*

a) The General Manager and the Deputy General Manager shall be accorded the privileges and immunities, exemptions and facilities accorded to Heads of diplomatic missions accredited to the Government in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961. Officials of rank A6 or equivalent will be assimilated to diplomatic personnel of similar rank, in conformity with the Vienna Convention. In addition, officials of grade A5 or A4 as may be designated, in agreement with the Government, by the General Manager, on the grounds of the responsibilities of their positions in the NC3O, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to diplomatic agents of comparable rank, in conformity with the Vienna Convention.

##### *Privileges and immunities of the members of the family*

b) The members of the family of the persons referred to in paragraph a), shall enjoy the privileges, immunities, exemptions and facilities accorded to the members of the family of diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations.

#### Article 3

##### *Classification*

The categories of civilian personnel of the NC3O referred to in article 17 of the Ottawa Agreement in the Netherlands comprise unclassified officials as well as grade A, L, B and C.

The members of the military component assigned to NC3O referred to in article 1, paragraph 1, subparagraph a) of the London Agreement comprise military personnel of grade OF and OR.

#### Article 4

##### *Waiver*

Privileges and Immunities are granted to NC3A personnel and their members of the family in the interests of the Organisation and not for

the personal benefit of the individuals concerned. The respective authorities of the civilian and military element shall have the right and the duty to waive the immunity in any case where, in their opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

#### Article 5

##### *Commissary*

The NC3O may establish a tax and duty free commissary for the sale of limited quantities of certain articles to NC3A personnel for personal use or consumption and not for gift or sale, under conditions to be agreed upon by the NC3O and the Netherlands Government, whereby the Netherlands Government will facilitate a flexible implementation of customs procedures as much as possible. Solely holders of a registration card will have admission to the commissary, unless the card bears the mark NL or DV, as detailed in paragraph 8 below.

#### Article 6

##### *Motor vehicles*

NC3A personnel may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependants. In addition, they shall be exempt from motor vehicle tax and excise duties on motor fuel on the basis of the regime accorded to AFCENT and to its successor organisation.

#### Article 7

##### *Exemption from aliens registration*

NC3A personnel, spouses and dependent children who do not have the Netherlands nationality or were not locally recruited in the Netherlands, shall enjoy exemption from all measures restricting immigration and from aliens registration formalities.

#### Article 8

##### *Notification and identity cards*

The General Manager shall notify the Netherlands Government as soon as possible, and thereafter on a regular basis with respect to any

change, of the names, grades, marital status and addresses of NC3A personnel. The Ministry of Foreign Affairs shall issue identity cards to NC3A personnel, their spouses and dependent children, provided that they do not have Netherlands nationality or that they were not permanently residing in the Netherlands before being recruited by NC3O (locally recruited). Upon request by NC3O on grounds of functional necessity, the Ministry of Foreign Affairs is prepared to consider requests for identity cards for NC3A personnel having Netherlands nationality or who were locally recruited. The identity card will show that the holder has Netherlands nationality (NL) or was locally recruited in the Netherlands (DV).

#### Article 9

##### *Employment of members of the family*

The members of the family forming part of the household of NC3A personnel shall be authorised to engage in gainful employment in the Netherlands under the conditions as set out in the Annex.

#### Article 10

##### *Social security*

1. The NC3A personnel is affiliated to the NATO group insurance scheme, and is exempt from the Netherlands' social security scheme, unless the personnel to whom the aforementioned scheme applies, take up gainful activity in the Kingdom of the Netherlands other than in the employ of the Agency.

2. The provisions of paragraph 1 of this article shall apply to the dependent members of the family forming part of the household of the persons referred to in paragraph 1, unless they are gainfully employed or self-employed or unless they receive social security benefits from the Kingdom of the Netherlands.

I have the honour to propose that if the provisions set forth above are acceptable to you the present letter and your affirmative reply constitute a supplementary Agreement to the Ottawa Agreement and to the London Agreement between the Kingdom of the Netherlands and the North Atlantic Treaty Organisation with regard to the privileges and immunities of the NC3O in The Netherlands, which shall enter into force on the day on which the Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

Please accept, Sir, the assurances of my highest consideration.

(sd.) BERNARD BOT

Bernard Bot  
Minister of Foreign Affairs of  
the Kingdom of the Netherlands

*The Rt. Hon. Lord Robertson of Port Ellen  
Secretary-General of the North Atlantic Treaty  
Organisation  
Blvd. Leopold III  
1110 Brussels  
Belgium*

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#### **Annex**

##### Employment of family members of NC3A personnel

1. Members of the family forming part of the household of NC3A personnel shall be authorised to engage in gainful employment in the Netherlands for the duration of the terms of office of the member of personnel concerned.

2. For the purpose of employment, the following persons are members of the family forming part of the household in the sense of paragraph 1:

- a) the spouses or registered partners of the members of NC3A personnel;
- b) children of the members of NC3A personnel who are under the age of 18;
- c) children of the members of NC3A personnel aged 18 or over, but not older than 27, provided that they formed part of the household of the member of NC3A personnel prior to their first entry in the Netherlands and still form part of this household, and that they are unmarried, financially dependent on the member of NC3A personnel concerned and are attending education in the Netherlands.

3. Persons mentioned in paragraph 2 of this Annex who obtain gainful employment shall have no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment, provided that measures of execution are taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.

4. In case of the insolvency of a person aged under 18 with respect to a claim arising out of a gainful employment of that person under this

Annex the immunity of the member of NC3A personnel of whose family the person concerned is a member shall be waived in accordance with the provisions of the applicable NATO agreements.

5. The employment referred to in paragraph 1 of this Annex shall be in accordance with Netherlands legislation, including fiscal and social security legislation, unless any other applicable international legal instrument provides otherwise.

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Nr. II

NATO  
SECRETARY-GENERAL

17 December 2003

SG(2003)1404

Dear Bernard,

I have the honour to refer to your letter of 17 December 2003, relating to an agreement to be concluded between the Kingdom of the Netherlands and the North Atlantic Treaty Organisation concerning granting privileges and immunities to the NATO Consultation, Command and Control Agency (NC3A), which reads as follows:

(Zoals in Nr. I)

The North Atlantic Treaty Organisation agrees to the proposals regarding the privileges and immunities to the NATO Consultation, Command and Control Agency and I consider your letter and my reply as together constituting an agreement between the Kingdom of the Netherlands and the North Atlantic Treaty Organisation.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Sincerely,

(sd.) GEORGE THE RT. HON. LORD  
ROBERTSON OF PORT ELLEN

*His Excellency  
Mr Bernard Bot  
Minister of Foreign Affairs of the Kingdom of the Netherlands  
The Hague*

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**Annex**

(Zoals in Nr. I)

D. PARLEMENT

Het in de brieven vervatte verdrag heeft ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal, alvorens in werking te kunnen treden.

G. INWERKINGTREDING

De bepalingen van het in de brieven vervatte verdrag zullen ingevolge het gestelde in de laatste alinea van brief Nr. I in werking treden op de dag dat de partijen elkaar schriftelijk ervan in kennis hebben gesteld dat aan de juridisch vereiste procedures voor inwerkingtreding is voldaan.

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

J. GEGEVENS**Verwijzingen**

Titel	: Verdrag nopens de rechtspositie van de Noord-Atlantische Verdragsorganisatie, van de nationale vertegenwoordigers bij haar organen en van haar internationale staf; Ottawa, 20 september 1951
Tekst	: <i>Trb.</i> 1951, 139 (Engels en Frans) <i>Trb.</i> 1953, 9 (vertaling)
Laatste <i>Trb.</i>	: <i>Trb.</i> 1954, 82
Titel	: Verdrag tussen de Staten die partij zijn bij het Noord-Atlantisch Verdrag, nopens de rechtspositie van hun krijgsmachten; Londen, 19 juni 1951
Tekst	: <i>Trb.</i> 1951, 114 (Engels en Frans) <i>Trb.</i> 1953, 10 (vertaling)
Laatste <i>Trb.</i>	: <i>Trb.</i> 2001, 28



Titel : Verdrag van Wenen inzake diplomatiek verkeer;  
Wenen, 18 april 1961  
Tekst : *Trb.* 1962, 101 (Engels en Frans)  
*Trb.* 1962, 159 (vertaling)  
Laatste *Trb.* : *Trb.* 1994, 212

Uitgegeven de *vijftiende* januari 2004.

*De Minister van Buitenlandse Zaken,*

B. R. BOT