

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1964 Nr. 70

A. TITEL

Overeenkomst tussen het Koninkrijk der Nederlanden en de Republiek Indonesië inzake Westelijk Nieuw-Guinea (West-Irian), met Bijlage en bijbehorende overeenkomsten; New York, 15 augustus 1962

B. TEKST

De tekst van Overeenkomst, Bijlage en bijbehorende overeenkomsten is geplaatst in *Trb.* 1962, 77. Zie ook *Trb.* 1962, 160.

C. VERTALING

Zie *Trb.* 1962, 84 en *Trb.* 1962, 160.

D. GOEDKEURING

E. BEKRACHTIGING

G. INWERKINGTREDING

Zie *Trb.* 1962, 160.

J. GEGEVENS

Zie *Trb.* 1962, 77, *Trb.* 1962, 160 en *Trb.* 1963, 71.

Voor de bemoeienissen van de Verenigde Naties met de kwestie Westelijk Nieuw-Guinea in de periode januari—oktober 1962 zie de uitgave van het Ministerie van Buitenlandse Zaken, nr. 76.

De Rijkswet van 28 februari 1963, houdende verklaring dat er grond bestaat tot het in overweging nemen van een voorstel tot verandering in de Grondwet van de bepalingen, welke op Nederlands

Nieuw-Guinea betrekking hebben (artikelen 1, 2, 132 en 178) is geplaatst in *Stb.* 63. Zie voor de behandeling in de Staten-Generaal Bijl. *Hand.* II 1962/1963 — 6980 (R 309), *Hand.* II 1962/63, blz. 513—542, Bijl. *Hand.* I 1962/63, nrs. 60, 78 en 78a, en *Hand.* I 1962/63 blz. 200—213.

In *Stb.* 398 is geplaatst de Wet van 17 oktober 1962, houdende bijzondere voorzieningen Westelijk Nieuw-Guinea. Zie voor de behandeling in de Staten-Generaal Bijl. *Hand.* 1961/62 en 1962/63 — 6828, *Hand.* II 1962/63 blz. 28—41, Bijl. *Hand.* I 1962/63, nrs. 5, 9, 9a, *Hand.* I 1962/63 blz. 30—31.

In overleg met de Regeringen van het Koninkrijk der Nederlanden en van Indonesië is bij besluit van de Secretaris-Generaal van de Verenigde Naties opgericht het Ontwikkelingsfonds voor Westelijk Nieuw-Guinea (vergelijk jaarverslag van de Secretaris-Generaal aan de 18e zitting van de Algemene Vergadering, supplement nr. 1, A/5501, hoofdstuk II, afd. 15). Op 26 en 27 november 1963 bevestigden respectievelijk de Regeringen van het Koninkrijk der Nederlanden en van Indonesië hun instemming met de statuten van het Ontwikkelingsfonds. De Secretaris-Generaal van de Verenigde Naties benoemde in december 1963 de Heer J. G. Rapoport tot Uitvoerend Secretaris van het Fonds.

De tekst der statuten van het Fonds luidt:

Memorandum on the Fund of the United Nations for the Development of West Irian

(1) Purpose of the Fund

A United Nations Fund is established to assist the Government of Indonesia in the economic and social development of West Irian. The Fund will finance projects selected in agreement with the Government of Indonesia with the interests and welfare of the people of West Irian in mind. An overall programme will include capital investment projects to improve the infra-structure as well as pre-investment projects.

(2) Resources of the Fund

The Fund is open to contributions from Member States of the United Nations or of any of the specialized agencies. Contributions will be made in readily usable currency for an initial period of three years. The terms of the contributions shall contain approval by the donor of the terms of the present Memorandum of Understanding under which such contributions will be administered by the Secretary-General.

The Government of Indonesia will participate by a counterpart contribution (cash, local services, supplies and facilities) to cover costs payable in local currencies, the volume of which shall be decided

upon in consultation with the Secretary-General. The Government of Indonesia will participate, as well, by a counterpart contribution to each project financed by the Fund. The volume of such contribution shall be decided upon project by project in consultation with the Secretary-General.

(3) *Organization*

The Secretary-General has overall responsibility for the management of the Fund, which shall be administered by him "in trust", under the terms of United Nations Financial Regulations 6.6 and 6.7.

He shall arrange with the specialized agencies or with the United Nations for the furnishing of their services in the capacity of executing agency in respect of projects in their respective spheres of competence, and shall also request the Executive Chairman of TAB to make available to the Fund the administrative and co-ordinating facilities of the Resident Representative and Director of Special Fund Programmes in Indonesia.

In carrying out a project, the organization designated as executing agency shall have, vis-à-vis the Fund, the same status as it would have if acting in a comparable capacity for the United Nations Special Fund.

(4) *Programming*

The Representatives of the United Nations and of the specialized Agencies shall assist the Government of Indonesia in the preparation and submission of projects, in consultation with a special staff working under the Resident Representative of TAB and Director of Special Fund Programmes. The special staff shall co-ordinate the preparation of individual projects and of the overall programme in its totality, extending over a period of three years.

The programme and the individual projects as agreed upon with the Government of Indonesia shall be submitted to the Secretary-General for his final approval. The execution of individual projects shall not commence until authorization is given by the Secretary-General.

(5) *Implementation of projects*

a. Each project or series of projects shall be described in detail by a Plan of Operations to be approved by the Government of Indonesia, the designated executing agency and the Secretary-General.

b. A project manager shall be appointed by the executing agency and shall be directly responsible to the agency for implementing a project or series of projects in co-operation with a counterpart national official designated by Indonesian authorities.

In the case of projects executed by contract to outside firms, the project manager shall have as his main responsibility the task of review and supervision of contract performance.

c. To the extent that projects are of a pre-investment of technical assistance nature, the usual practices and procedures followed by the executing agency in implementing comparable projects under other relevant United Nations programmes (the United Nations Special Fund or the Expanded Programme of Technical Assistance) shall apply.

d. For capital investment projects, the executing agency shall normally contract execution of the project to an outside firm, if it considers that this is the most advantageous procedure to adopt under the circumstances. International bidding under the relevant financial rules and practices of the executing agencies shall apply. However, when services, supplies or equipment are available in Indonesia, qualified firms within Indonesia shall be given preference for the award of contracts in the event that their bids offer conditions equal to those offered by other bidders.

Each contract entered into shall provide specifically, *inter alia*, for the method of purchase and disposal of capital items to be used by the outside contractor in implementing the Plan of Operations, as well as for the arrangements which would govern termination of the project under exceptional or unforeseen circumstances. Technical and financial supervision of performance under the contract shall be exercised by the project manager who shall report to the executing agency and, as requested, to the Resident Representative.

e. The Secretary-General through his Special Staff at Djakarta shall be free to observe at any time the progress of operations carried out by the executing agencies. The executing agencies shall provide the Secretary-General with all written information that he may request for the co-ordination and supervision of the programme; and shall also furnish periodic financial reports on the projects assigned to them.

(6) *Financial Rules*

a. Each Plan of Operations shall include a project budget and provide, in annex, a plan of expenditure, with estimates of anticipated cash disbursements shown for each year, and with a breakdown between foreign currency and local currency requirements.

As appropriate, the Plan of Operations shall also include a budget of overhead costs to cover such anticipated, directly identifiable, extra costs to the executing agency associated with the execution of a particular project as the Secretary-General may agree for payment from resources of the Fund.

b. Costs payable in local currencies shall be met by the Fund from currencies to be contributed by the Indonesian Government in accordance with point (2) above.

c. The basis for determination of overhead costs, not provided for in a Plan of Operations, to be reimbursed to an executing agency shall

take into account the nature of the project or projects assigned to the organization as well as the manner in which projects are to be implemented. It is understood that the administration of the Fund projects shall not entail additional costs payable from the regular budget of the United Nations or of any executing agency. Reimbursement of overhead costs shall not exceed the costs actually related to the administration of the Fund activities.

d. Earmaking of funds to the executing agency will be made at the time of the approval of the Plan of Operations by the Secretary-General for the full duration of the project. Cash remittances shall be made upon request from the executing agency, either as advance payment, or, to cover cash disbursements.

e. Whenever a revision of an approved Plan of Operations is required, and has been agreed upon with the Government of Indonesia, the executing agency shall seek the prior agreement of the Secretary-General.

f. The accounts of a project shall be closed as soon as practicable and normally within twelve months after the completion of the project.

g. The accounts of the Fund itself shall be maintained on a yearly basis. Year-end financial statements shall be presented and audited, internally and externally in accordance with the United Nations Financial Regulations.

h. Except as otherwise provided in this Memorandum or as may subsequently be agreed between the Secretary-General and the executing agency concerned, all financial transactions in the implementation of a Plan of Operations shall accord with the financial policies, rules and procedures which the executing agency applies to operational programmes of similar character. To the extent that funds are used for the employment of international personnel, the relevant Staff Regulations and rules of the executing agency suitable to the category of personnel required shall apply, including the rules and regulations applicable to technical assistance and Special Fund personnel.

(7) *Privileges and immunities*

The Government of Indonesia undertakes to apply the provisions in Article VIII of the Agreement signed between the Special Fund of the United Nations and the Government of Indonesia on 7 October 1960 to the Fund's operations and the organizations, their assets, and personnel, as well as to other persons performing services on their behalf.

(8) *Reports*

In addition to the annual audited financial statements, the Secretary-General shall report to the General Assembly of the United

Nations on the establishment of the Fund and periodically on its progress. Special informal reports may be prepared by the Secretary-General in order to give detailed information to the Governments contributing to the Fund.

(9) Review and Modification

The Fund's operations may be reviewed periodically by the Secretary-General or the Government of Indonesia. Any proposal of the Secretary-General or of the Government of Indonesia for a revision of this Memorandum of Understanding and of the Fund's operations, or its termination, shall be given full and sympathetic consideration by the other party, and the appropriate steps to be taken shall be determined by common agreement.

It is understood that the donors will be consulted before this Memorandum of Understanding is amended.

Uitgegeven de twintigste mei 1964.

De Minister van Buitenlandse Zaken,

J. LUNS.