

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1966 Nr. 242

A. TITEL

*Overeenkomst tot oprichting van de Aziatische
Ontwikkelingsbank;
Manilla, 4 december 1965*

B. TEKST

De tekst van de Overeenkomst is geplaatst in *Trb.* 1966, 107. Behalve voor de in *Trb.* 1966, 107 en 173 genoemde Staten is de Overeenkomst nog ondertekend voor:

Denemarken	28 januari 1966
Singapore	28 januari 1966
Vietnam	28 januari 1966
België	31 januari 1966
Italië	31 januari 1966

C. VERTALING

Zie *Trb.* 1966, 173.

D. GOEDKEURING

Artikel 1 van de Wet van 21 juli 1966 (*Stb.* 335) luidt:

„De vanwege Ons op 4 december 1965 te Manilla ondertekende Overeenkomst inzake de oprichting van de Aziatische Ontwikkelingsbank, waarvan de Engelse tekst is geplaatst in *Tractatenblad* 1966, 107, en de vertaling in het Nederlands in *Tractatenblad* 1966¹⁾, wordt goedgekeurd voor Nederland.”

Deze Wet is gecontrasigneerd door de Minister van Financiën A. VONDELING, de Minister van Buitenlandse Zaken a.i. A. VONDELING en de Minister zonder Portefeuille, belast met de aan-

1) Het nr. 173 is in de Wet niet weergegeven.

gelegenheden betreffende de hulp aan ontwikkelingslanden TH. H. BOT. Zie voor de behandeling in de Staten-Generaal: Bijl. *Hand. II* 1965/66, 8592; *Hand. II* 1965/66, blz. 2359—2360; Bijl. *Hand. I* 1965/66, nr. 193; *Hand. I* 1965/66, blz. 1035—1036.

E. BEKRACHTIGING

In overeenstemming met artikel 64, eerste lid, hebben de volgende Staten een akte van bekrachtiging of aanvaarding van de Overeenkomst bij de Secretaris-Generaal der Verenigde Naties nedergelegd:

Pakistan	12 mei 1966
Nepal	21 juni 1966
West-Samoa	23 juni 1966
de Philippijnen ¹⁾	5 juli 1966
Noorwegen ²⁾	14 juli 1966
India ¹⁾	20 juli 1966
België	16 augustus 1966
Denemarken ³⁾	16 augustus 1966
Japan ¹⁾	16 augustus 1966
Korea ¹⁾	16 augustus 1966
Malaysia ¹⁾	16 augustus 1966
Thailand	16 augustus 1966
de Verenigde Staten van Amerika ¹⁾	16 augustus 1966
Afghanistan	22 augustus 1966
Canada ¹⁾	22 augustus 1966
Finland	22 augustus 1966
het Koninkrijk der Nederlanden (alleen voor Nederland) ¹⁾	29 augustus 1966
de Bondsrepubliek Duitsland ¹⁾ (mede voor het „Land” Berlijn)	30 augustus 1966
Laos	30 augustus 1966
Australië ⁴⁾	19 september 1966
Singapore ¹⁾	21 september 1966
China	22 september 1966
Vietnam	22 september 1966
het Verenigd Koninkrijk van Groot-Britannië en Noord-Ierland ¹⁾ ⁵⁾	26 september 1966
Ceylon ¹⁾	29 september 1966
Nieuw-Zeeland ⁶⁾	29 september 1966
Oostenrijk	29 september 1966
Zweden ⁷⁾	29 september 1966
Italië ¹⁾ ⁸⁾	30 september 1966
Kambodja	30 september 1966

1) Onder het voorbehoud bedoeld in artikel 56, lid 2.

2) Onder de volgende verklaring:

"According to article 14, paragraph ix, in the Agreement establishing the Asian Development Bank, 'the proceeds of any loan, investment or other financing undertaken in the ordinary operations of the Bank or with Special Funds established by the Bank pursuant to paragraph 1 (i) of article 19, shall be used only for procurement in member countries of goods and services produced in member countries.....'

The declared shipping policy of the Norwegian Government is based on the principle of free circulation of shipping in international trade in free and fair competition. In accordance with this policy transactions and transfers in connection with maritime transport should not be hampered by provisions giving preferential treatment to one country or a group of countries; the aim always being that normal commercial consideration should determine the method and flag of shipment. The Government of Norway trusts that article 14, paragraph ix, will not be applied contrary to this principle."

3) De Deense Regering legde hierbij een soortgelijke verklaring af als de Noorse Regering (zie noot 2).

4) Onder de volgende voorbehouden en verklaringen:

"The Government of Australia declares in accordance with paragraph 2 (ii) of article 24 of the said Agreement that it desires the use of the portion of its subscription paid pursuant to paragraph 2 (b) of article 6 of the said Agreement to be restricted to payments for goods or services produced in its territory and that any purchases of goods or services in the territory of Australia, subject to the usual consideration of competitive tendering, shall be first charged against the portion of its subscription paid pursuant to paragraph 2 (b) of article 6 of the Agreement.

The Australian Government further declares in accordance with paragraph 2 of article 56 of the said Agreement that it retains the right to levy taxation in respect of salary and emoluments paid by the Bank for services rendered in Australia to a Director, alternate, officer or employee of the Bank, including an expert performing a mission for the Bank, being a resident of Australia within the meaning of the Australian legislation relating to income tax unless the person is not a citizen of Australia and came to Australia solely for the purpose of performing duties of the office in the Bank held by him.

The Australian Government is unable to accord to the Bank, in respect of any mailbags which the Bank might wish to dispatch through postal channels in Australia, the reduced rates which the Australian Government accords, on the basis of reciprocity, to certain other Governments in respect of mailbags dispatched through postal channels by their diplomatic missions in Australia.

The Australian Government is, insofar as the article applies to priorities, rates and taxes on telecommunications, unable fully to comply with article 54 of the Agreement which requires that the Bank in respect of its official communications shall be accorded by each member treatment not less favourable than that accorded to the official communications of any other member, until such time as all other Governments have decided to co-operate in granting this treatment to international organizations. This reservation shall not affect the right of the Bank to lodge press telegrams at prescribed press rates to the press and radio in Australia.

The Australian Government understands that nothing in the said Agreement affects the application of any Australian law relating to quarantine."

5) Bij de bekrachtiging heeft de Britse Regering nog de volgende opmerkingen gemaakt:

"Article 54 of the Agreement has the effect of affording Government telecommunication privileges to the Asian Development Bank. The list of persons and authorities entitled to such privileges in Annex 3 to the International Telecommunications Convention signed at Geneva on the 21st of December, 1959, does not include international organisations other than the United Nations. There is thus a clear conflict between article 54 and the Telecommunications Convention, to which the United Kingdom (and no doubt other members of the Asian Deve-

loment Bank) is a party. The United Kingdom wishes to propose that this conflict be considered at an early meeting of the Board of Governors.

Paragraph 1 of article 56 of the Agreement might perhaps be construed as allowing the Asian Development Bank complete exemption from all customs duties and taxes on goods without any qualification. It is current practice to accord relief from taxation on goods to international organisations only in respect of articles acquired in pursuance of the official activities of an organisation, and, in the case of internal indirect taxes, only for substantial purchases where it is reasonably practicable to allow such relief. The Government of the United Kingdom consider that paragraph 1 of article 56 is to be construed in the light of current practice.”.

Tevens heeft de Britse Regering het voornemen de Aziatische Ontwikkelingsbank te vragen naar:

“(a) an understanding that it will insure any motor vehicle belonging to, or operated on behalf of, the Bank against third party claims for damage arising from an accident caused by such a vehicle in the United Kingdom and that the immunity of the Bank from legal process under paragraph 1 of article 50 will not be asserted in the case of any civil action in the United Kingdom by a third party for damage arising from an accident caused by such a vehicle;

(b) an understanding that no immunity under article 55 will be asserted in respect of any motor traffic offence committed by a member of the personnel of the Bank or in respect of damage caused by a motor vehicle belonging to, or driven by, him.”.

6) De Regering van Nieuw-Zeeland legde hierbij een verklaring af als bedoeld in artikel 24, lid 2 (ii).

7) Onder de volgende verklaring:

“According to the main rule of article 14, paragraph ix, in the Agreement establishing the Asian Development Bank, the proceeds of any loan, investment or other financing undertaken by the Bank shall be used only for procurement in member countries of goods and services produced in member countries.

The shipping policy of the Swedish Government is based on the principle of free circulation of shipping in international trade in free and fair competition. The Swedish Government trusts that article 14, paragraph ix, will not be applied contrary to this principle. Similarly, it is part of the assistance policy of the Swedish Government that multilateral development assistance should be based on the principle of free international competitive bidding. The Swedish Government expresses the hope that it will be possible to reach agreement on such modification of article 14, paragraph ix, that it does not conflict with this principle.”.

8) Bij de bekrachtiging werden voor de Italiaanse Regering nog de volgende opmerkingen gemaakt:

“The Italian Government considers that paragraph 1 of article 56 is to be construed in the light of current practice concerning exemption of international organizations from taxation. According to such practice, relief from taxation is granted to international organizations only in respect of articles acquired in pursuance of the official activities of an organization and, in the case of internal indirect taxes, only for substantial purchases where it is reasonably practicable to allow such relief.

The Italian Government considers that the provision of article 50, paragraph 1, concerning immunity from jurisdiction is to be construed within the limits in which such immunity is provided by international law.

I also have the honour to inform your Excellency that it is the intention of the Italian Government to seek from the Asian Development Bank an understanding to the effect that the special procedure to be provided for pursuant to paragraph 2 of article 50 of the bye-laws and regulations of the Bank, or in contracts entered into with the Bank, should not be of prejudice to the jurisdiction of Italian Courts with respect to any claims put forward by private parties.”.

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zijn ingevolge artikel 65 op 22 augustus 1966 in werking getreden voor de Staten die tot op die dag de Overeenkomst hebben bekrachtigd of aanvaard.

Voor de Staten die de Overeenkomst na 22 augustus 1966 bekrachtigen of aanvaarden, treden zij in werking op de dag van nederlegging van de betreffende akte van bekrachtiging of aanvaarding.

Wat het Koninkrijk der Nederlanden betreft, is de Overeenkomst op 29 augustus 1966 voor Nederland in werking getreden.

J. GEGEVENS

Zie *Trb.* 1966, 107 en 173.

Uitgegeven de tweeëntwintigste november 1966.

De Minister van Buitenlandse Zaken,
J. LUNS.