

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1980 Nr. 49

A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Internationale Thee Promotie Associatie (ITPA) betreffende de zetel van de Organisatie;
's-Gravenhage, 30 januari 1980*

B. TEKST

Agreement between the Kingdom of the Netherlands and the International Tea Promotion Association concerning the headquarters of the Association

The Government of the Kingdom of the Netherlands and the International Tea Promotion Association,
Having regard to Article 15 of the International Tea Promotion Association Agreement;

Desiring to define the status, privileges and immunities referred to in the said Article 15;

Have agreed as follows:

Article I

a) "Association" means the International Tea Promotion Association;

b) "Government" means the Government of the Kingdom of the Netherlands;

c) "representatives" means representatives of Members of the International Tea Promotion Association Agreement, and in each case means heads of delegations and alternates;

d) "premises of the Association" means the buildings or parts of buildings and the land ancillary thereto used for the official purpose of the Association;

e) "official activities of the Association" includes its administrative

activities and those undertaken pursuant to the International Tea Promotion Association Agreement; and

f) "staff member" means the Executive Director and all persons appointed or recruited by the Executive Director for full-time employment with the Association; other than experts and persons recruited locally and assigned to hourly rates of pay.

Article 2

The Association shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

Article 3

The archives of the Association shall be inviolable. The term "archives" includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Association.

Article 4

The premises of the Association shall be inviolable subject to the provisions of Article 20 of this Agreement. Any person authorized to enter any place under any legal provision or on the strength of the law as described in the said Article 20 shall not exercise that authority in respect of the premises of the Association unless permission to do so has been given by or on behalf of the Executive Director. Such permission shall be assumed in case of fire or other disaster requiring prompt protective action. In the other cases the Executive Director or the person acting on his behalf shall give permission if it is possible to do so without prejudicing the interests of the Association.

Article 5

1) The Association shall have immunity from jurisdiction and execution except:

a) to the extent that the Association shall have expressly waived such immunity in a particular case;

b) in respect of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or operated on behalf of the Association or in respect of a motor traffic offence involving such a vehicle;

c) in respect of an enforcement of an arbitration award made under either Article 21 or Article 22 of this Agreement;

d) in the event of the attachment, pursuant to a decision by the judicial authorities, of the salaries and emoluments owed by the

Association to a staff member who is a Netherlands national or a permanent resident of the Netherlands.

2) The Association's property and assets wherever situated shall be immune from any form of requisition, confiscation, expropriation and sequestration.

They shall also be immune from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to, or operated on behalf of, the Association.

Article 6

(1) Within the scope of its official activities, the Association and its property shall be exempt from all direct taxes. Direct taxes include income tax, capital tax, corporation tax and direct taxes levied by local authorities.

(2) The Association shall, on application, be granted exemption from motor vehicle tax in respect of its motor vehicles used for its official activities.

(3) The Association shall be accorded a refund of car tax and value added tax paid on the purchase of new motor cars, and value added tax paid on the supply of goods or services of substantial value, necessary for the official activities of the Association. In this connection it is envisaged that claims for refund will be made only in respect of goods or services supplied on a recurring basis or involving considerable expenditure such as the furnishing of the premises of the Association.

The Association shall be accorded a refund of the excise duty element included in the price of spirits and hydrocarbons such as fuel oils and motor fuels purchased by the Association and necessary for its official activities.

Article 7

Goods whose import or export by the Association is necessary for the exercise of its official activities shall be exempt from all customs duties and other charges (except mere payments for services) and from all prohibitions and restrictions on import or export.

Article 8

(1) The provisions of Article 6 and 7 shall not apply to taxes and duties that are no more than charges for public utility services.

(2) Goods acquired under Article 6 or imported under Article 7 shall not be sold or given away except in accordance with conditions agreed with the Government.

(3) No exemption shall be granted under Article 6 or 7 in respect of

goods purchased or imported, or services provided, for the personal benefit of the staff members of the Association.

Article 9

The Association may receive and hold any kind of funds, currency, cash or securities; it may dispose of them freely for any purpose provided for in the Agreement and hold accounts in any currency to the extent required to meet its obligations.

Article 10

1) For its official communications the Association shall enjoy treatment not less favourable than that accorded by the Netherlands to other international organisations.

2) No censorship shall be applied to official communications of the Association by whatever means of communication.

Article 11

The circulation of publications and other information material sent by or to the Association shall not be restricted in any way.

Article 12

1) Representatives shall enjoy, while exercising their functions and in the course of their journeys to and from the place of meeting, the following privileges and immunities:

a) immunity from arrest and detention and from seizure of their personal luggage;

b) immunity from jurisdiction (even after the termination of their mission) in respect of acts, including words written or spoken, done by them in the exercise of their functions; this immunity shall not, however, apply in the case of a motor traffic offence committed by a representative nor in the case of damage caused by a motor vehicle belonging to or driven by a representative;

c) inviolability for all their official papers and documents;

d) the right to use codes and to receive documents or correspondence by special courier or sealed bag;

e) exemption for themselves and their spouses from all measures restricting entry, from charges for visas and from aliens' registration formalities;

f) the same customs facilities as regards their personal luggage and the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign Governments on temporary official missions.

2) Privileges and immunities are accorded to representatives not for

their personal advantage but in order to ensure complete independence in the exercise of their functions in connection with the Association. Consequently, a Member of the International Tea Promotion Association Agreement has the duty to waive the immunity of a representative where retaining it would impede the course of justice and it can be waived without prejudicing the purposes for which it was accorded.

Article 13

In addition to the privileges and immunities provided for in Article 14 of this Agreement, the Executive Director and, in the absence or incapacitation of the Executive Director, the staff member designated to act in his place, unless in either case he is a Netherlands national or a permanent resident of the Netherlands, shall enjoy the privileges and immunities to which a diplomatic agent is entitled.

Article 14

The staff members of the Association:

a) shall have (even after they have left the service of the Association) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken; this immunity shall not, however, apply in the case of a motor traffic offence committed by a staff member of the Association nor in the case of damage caused by a motor vehicle belonging to or driven by a staff member;

b) shall enjoy inviolability for all their official papers and documents;

c) shall enjoy exemption from all measures restricting immigration, from charges for visas and from aliens' registration formalities; and members of their families forming part of their households shall enjoy the same facilities;

d) shall enjoy the same facilities as to repatriation as diplomatic agents in time of international crisis; and members of their family forming part of their households shall enjoy the same facilities;

e) unless they are Netherlands nationals, shall have the right to import duty-free their furniture and personal effects at the time of first taking up their post in the Netherlands and the right on the termination of their functions in the Netherlands to export free of duty their furniture and personal effects, subject, in both cases, to the conditions agreed with the Government.

Article 15

1) The staff members of the Association:

a) shall not require a work permit;

b) shall not require a residence permit provided that they hold the personal identity card referred to in paragraph 2 of this Article; the same shall apply to non-Netherlands members of their families forming part of their households.

2) The staff members of the Association and non-Netherlands members of their families forming part of their households shall hold a personal identity card issued by the Association stating names, date and place of birth, nationality, number of passport (aliens only), and bearing photograph and signature. The identity cards shall be authenticated by the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 16

Experts (other than the staff members referred to in Article 14 of this Agreement) in the exercise of their functions in connection with the Association or in carrying out missions for the Association shall enjoy the following privileges and immunities to the extent that they are necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of such missions:

a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him; experts shall continue to enjoy this immunity after they have ceased to be employed by the Association;

b) inviolability for all their official papers and documents;

c) the same customs facilities as regards their personal luggage as are accorded to the officials of foreign Governments on temporary official missions.

Article 17

(1) Subject to the conditions and following the procedure laid down by the Governing Board and agreed with the Government, the Executive Director and the staff members shall be subject to a tax, for the benefit of the Association, on salaries and emoluments paid by the Association. From the date on which this tax is applied such salaries and emoluments shall be exempt from Netherlands income tax. The Government shall retain the right to take these salaries and emoluments into account when assessing the amount of tax to be applied to income from other sources.

(2) In the event that the Association operates a system for the payment of pensions and annuities to its former staff members and their dependents, the provisions of paragraph (1) of this Article shall not apply to such pensions and annuities.

Article 18

In the event of the Association establishing its own social security scheme or adhering to a social security scheme, the Association, the Executive Director and the other staff members shall be exempt from all compulsory contributions to the Netherlands social security organisations. Consequently, they shall not be covered against the risks described in the Netherlands social security regulations.

Article 19

1) The privileges and immunities accorded in this Agreement to the staff members and experts of the Association are provided solely to ensure in all circumstances the unimpeded functioning of the Association and the complete independence of the persons to whom they are accorded.

2) The Executive Director has the right and the duty to waive such immunities (other than his own) when he considers that such immunities are preventing the carrying out of justice and when it is possible to dispense with the immunities without prejudicing the interests of the Association. In respect of the Executive Director, the Governing Board of the International Tea Promotion Association may waive his immunities.

Article 20

The Association shall co-operate at all times with the appropriate authorities in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning the handling of inflammable material, public health, labour inspection and other similar national legislation, and to prevent any abuse of the privileges and immunities and facilities provided for in this Agreement, but the right of the Government to take all precautionary measures in the interests of its security shall not be prejudiced by any provision in this Agreement.

Article 21

Where the Association enters into contracts (other than contracts concluded in accordance with staff regulations) the Association shall include an arbitration clause whereby any disputes arising out of the interpretation or execution of the contract may at the request of either party be submitted to private arbitration.

Article 22

The Association shall, at the instance of the Government, submit to

an international arbitration tribunal any dispute (other than a dispute concerning the interpretation or application of the International Tea Promotion Association Agreement, or any succeeding agreement):

- a) arising out of damage caused by the Association;
- b) involving any other non-contractual responsibility of the Association; or
- c) involving the Executive Director, a staff member or expert of the Association, and in which the person concerned can claim immunity from jurisdiction under this Agreement, if this immunity is not waived.

Article 23

The Association shall from time to time send to the Government a list of all staff members indicating in each case whether or not the individual is a Netherlands national or permanently resident in the Netherlands. The Association may inform the Government of the appointment of staff members individually for addition to the list.

Article 24

1) Any dispute concerning the interpretation or application of this Agreement that cannot be settled between the Parties in any other way shall be submitted to an arbitral tribunal at the request of either Party.

2) The tribunal shall consist of three arbitrators. One arbitrator shall be appointed by the Government, one by the Association and a third arbitrator, who shall be the Chairman, shall be appointed by the said two arbitrators.

3) If within two months from the date of appointment of the second arbitrator the two arbitrators are unable to agree on the appointment of the third arbitrator, the President of the International Court of Justice shall, at the request of either Party, be invited to appoint the third arbitrator.

4) The arbitrators decide on the arbitration procedures to be followed.

5) The arbitral award shall be final and binding on the Parties.

Article 25

Any amendment of this Agreement shall be decided upon in writing between the two Parties and shall take effect immediately.

Article 26

This Agreement shall enter into force on the day of its signature.

As regards the Kingdom of the Netherlands, the Agreement shall apply only to the Kingdom in Europe.

Article 27

This Agreement is concluded for an undetermined period. Each of the two Parties has the right to denounce the Agreement taking into account a term of notice of six months.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement.

DONE at The Hague on 30 January 1980, in two copies in the English language.

For the Kingdom of the Netherlands:

(s.) C. A. VAN DER KLAUW

(s.) J. DE KONING

For the International Tea Promotion Association:

(s.) T. S. BROCA

D. PARLEMENT

Op grond van artikel 3 van de Wet van 24 december 1947 (*Stb.* H 452), houdende goedkeuring van de toetreding tot het door de Algemene Vergadering van de Verenigde Naties op 13 februari 1946 aangenomen Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties (*Stb.* I 224), juncto artikel 62, eerste lid, onder a, van de Grondwet, behoeft de onderhavige Overeenkomst niet de goedkeuring der Staten-Generaal alvorens in werking te kunnen treden.

Dit artikel 3 luidt: „Wij behouden Ons voor verdragen te bekrachtigen en andere maatregelen te nemen teneinde aan andere internationale organisaties overeenkomstige voorrechten en immuniteiten toe te kennen als in het in artikel 1 bedoelde Verdrag worden toegekend aan de Verenigde Naties.”.

Deze Wet is gecontrasigneerd door de Minister van Buitenlandse Zaken W. VAN BOETZELAER, de Minister van Justitie J. H. VAN MAARSEVEEN, de Minister van Financiën P. LIEFTINCK en de Minister van Overzeese Gebiedsdelen a.i. GÖTZEN.

Zie voor de behandeling in de Staten-Generaal: Bijl. Hand. II 1947/48-629; Hand. II 1947/48, blz. 636; Bijl. Hand. I 1947/48, nr. 30; Hand. I 1947/48, blz. 48.

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zijn ingevolge artikel 26, eerste alinea, op 30 januari 1980 in werking getreden.

Wat het Koninkrijk der Nederlanden betreft, geldt de Overeenkomst alleen voor Nederland.

J. GEGEVENS

Tijdens een van 7 tot en met 17 september 1976 te Genève gehouden Intergouvernementele Conferentie van theeproducerende landen over het tot stand brengen van de Internationale Thee Promotie Associatie, welke conferentie onder auspiciën van het UNCTAD/GATT Internationale Handelscentrum (ITC/UNCTAD/GATT, Palais des Nations CH-1211 Genève 10, Switzerland) werd gehouden, is op 31 maart 1977 een Overeenkomst tot stand gekomen betreffende de oprichting van een Internationale Thee Promotie Associatie.

Van het op 26 juni 1945 te San Francisco tot stand gekomen Statuut van het Internationale Gerechtshof, naar welk Gerechtshof wordt verwezen in artikel 24, derde lid, van de onderhavige Overeenkomst zijn tekst en vertaling geplaatst in *Trb.* 1971, 55; zie ook, laatstelijk, *Trb.* 1979, 36.

Uitgegeven de eerste april 1980.

De Minister van Buitenlandse Zaken,
C. A. VAN DER KLAUW