

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 1982 Nr. 111

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A. TITEL

*Verdrag tot afschaffing van het vereiste van legalisatie voor buitenlandse openbare akten, met bijlage; 's-Gravenhage, 5 oktober 1961*

B. TEKST

De tekst van het Verdrag is geplaatst in *Trb.* 1963, 28.

Voor de ondertekeningen zie ook *Trb.* 1965, 182, *Trb.* 1971, 61 en *Trb.* 1978, 5.

C. VERTALING

Zie *Trb.* 1963, 28.

D. PARLEMENT

Zie *Trb.* 1965, 182.

E. BEKRACHTIGING

Zie *Trb.* 1963, 28, *Trb.* 1965, 182, *Trb.* 1966, 188, *Trb.* 1968, 61, *Trb.* 1969, 105, *Trb.* 1971, 61, *Trb.* 1973, 71, *Trb.* 1978, 5 en *Trb.* 1979, 44.

Behalve de aldaar genoemde Staten heeft nog de volgende Staat in overeenstemming met artikel 10, tweede lid, van het Verdrag een akte van bekrachtiging bij het Ministerie van Buitenlandse Zaken te 's-Gravenhage nedergelegd:

Luxemburg . . . . . 4 april 1979

## F. TOETREDING

Zie *Trb.* 1968, 61, *Trb.* 1970, 8, *Trb.* 1973, 71, *Trb.* 1978, 5 en *Trb.* 1979, 44.

Overeenkomstig artikel 12, eerste lid, van het Verdrag hebben de Verenigde Staten van Amerika een akte van toetreding op 24 december 1980 nedergelegd bij het Ministerie van Buitenlandse Zaken te 's-Gravenhage. Hiervan is op 16 februari 1981 mededeling gedaan aan de Verdragsluitende Staten in overeenstemming met artikel 12, tweede lid. Aangezien geen bezwaren zijn gemaakt, is de toetreding op 16 augustus 1981 perfect geworden.

Bij de nederlegging van de akte van toetreding hebben de Verenigde Staten van Amerika het volgende medegedeeld:

“On the occasion of the deposit by the United States of America of its instrument of accession to the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, concluded October 5, 1961 (1961 Convention), the Department of State wishes to draw the attention of States currently parties to the Convention, and eventually of those becoming so in the future, to the provisions of Title 18, United States Code, Section 3190 relating to documents submitted to the United States Government in support of extradition requests. It does so for the purpose of preventing possible misunderstandings by stipulating that the 1961 Convention does not supersede or override the provisions of Section 3190.

Section 3190 provides:

Section 3190 Evidence on (Extradition) hearing

Depositions, warrants, or other papers or copies thereof offered in evidence upon the hearing of any extradition case shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that the same, so offered, are authenticated in the manner required.

The requirement of Section 3190 is satisfied by the certification of the principal United States diplomatic or consular officer resident in the State requesting extradition that the documents are in such form as to be admissible in the tribunals of that State. The certification by apostille under the 1961 Convention does not satisfy this requirement, as it only certifies the signature, the capacity of the signer, and the seal on the documents. It does not certify the admissibility of the documents. Thus, the requirement of section 3190 is not deemed by the United States to be overridden by operation of Article 8 of the 1961 Convention.

It should be noted, however, that a certification by the principal diplomatic or consular officer of the United States as set out in section 3190 has also served to legalize such documents, and will continue to do so without the need for any other legalization by United States officials or certification by the apostille under the 1961 Convention.

In light of the above, it is recommended that States party to the 1961 Convention continue as before to cover documents supporting extradition

requests directed to the United States with the special certification provided for by section 3190. Failure to cover extradition documents in this recommended manner could regrettably result in a finding by the United States judge or magistrate hearing the extradition request that the documents do not meet the requirements of section 3190 and thus are not entitled to be received and admitted as evidence. Such a finding could, in turn, result in the irrevocable rejection of the extradition request."

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#### G. INWERKINGTREDING

Zie *Trb.* 1965, 182, *Trb.* 1966, 188, *Trb.* 1968, 61, *Trb.* 1969, 105, *Trb.* 1970, 8, *Trb.* 1971, 61, *Trb.* 1973, 71, *Trb.* 1978, 5 en *Trb.* 1979, 44.

Voor de Verenigde Staten van Amerika is het Verdrag ingevolge artikel 12, derde lid, in werking getreden op 15 oktober 1981.

#### H. TOEPASSELIJKVERKLARING

Zie *Trb.* 1965, 182<sup>1)</sup>, *Trb.* 1966, 188, *Trb.* 1967, 92, *Trb.* 1968, 61, *Trb.* 1970, 8, *Trb.* 1971, 61, *Trb.* 1973, 71 en *Trb.* 1978, 5.

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<sup>1)</sup> Bij nota van 3 september 1980 heeft de Argentijnse Ambassade te 's-Gravenhage het volgende verklaard:

"The Argentine Government declares that the extension of the..... "Convention Abolishing the Requirement of Legalisation for Foreign Public Documents" (5-10-961),..... made by the United Kingdom to the Islas Malvinas, Georgias del Sur and Sandwich del Sur, identified by Great Britain as Falkland Islands and its Dependencies, does not affect the Rights of the Argentine Republic on the mentioned archipelago."

"The illicitness of the action of the United Kingdom (occupation by force of the Islands in 1833 and expulsion of the local inhabitants) has been constantly pointed out by the Republic of Argentina. Likewise, the U.N. in its G.A. resolutions 2065(XX), 3160(XXVIII) and 31/49 has urged both Governments to accelerate the negotiations on the existing sovereignty dispute, so as to put an end to the present colonial situation".

Bij nota van 6 januari 1981 heeft de Britse Ambassade te 's-Gravenhage bezwaar gemaakt tegen deze verklaring.

#### J. GEDEVENS

Zie *Trb.* 1963, 28, *Trb.* 1965, 182, *Trb.* 1966, 188, *Trb.* 1967, 92, *Trb.* 1967, 157, *Trb.* 1968, 61, *Trb.* 1969, 105, *Trb.* 1970, 8, *Trb.* 1971, 61, *Trb.* 1973, 71, *Trb.* 1978, 5 en *Trb.* 1979, 44.

Ter uitvoering van artikel 6, eerste lid, van het Verdrag hebben nog de volgende Staten medegedeeld, welke autoriteit bevoegd is om apostilles als bedoeld in artikel 3, eerste lid, af te geven:

28. *Luxemburg*

het Ministerie van Buitenlandse Zaken te Luxemburg.

29. *de Verenigde Staten van Amerika*

I. Authentication Officers and Acting Authentication Officer, United States Department of State

II. All Clerks and Deputy Clerks for the following:

Supreme Court of the United States

United States Court of Claims

United States Court of Customs and Patent Appeals

United States Court of International Trade

United States Courts of Appeals for the Following Circuits:

District of Columbia Circuit

First Circuit

Second Circuit

Third Circuit

Fourth Circuit

Fifth Circuit

Sixth Circuit

Seventh Circuit

Eighth Circuit

Ninth Circuit

Tenth Circuit

Eleventh Circuit

United States District Courts for the Following Districts:

Middle District of Alabama

Northern District of Alabama

Southern District of Alabama

District of Alaska

District of Arizona

Eastern District of Arkansas

Western District of Arkansas

Central District of California

Eastern District of California

Northern District of California

Southern District of California

District of Colorado

District of Connecticut

District of Delaware

District of Columbia

Middle District of Florida

Northern District of Florida

Southern District of Florida

Middle District of Georgia  
Northern District of Georgia  
Southern District of Georgia  
District of Hawaii  
District of Idaho  
Central District of Illinois  
Northern District of Illinois  
Southern District of Illinois  
Northern District of Indiana  
Southern District of Indiana  
Northern District of Iowa  
Southern District of Iowa  
District of Kansas  
Eastern District of Kentucky  
Western District of Kentucky  
Eastern District of Louisiana  
Middle District of Louisiana  
Western District of Louisiana  
District of Maine  
District of Maryland  
District of Massachusetts  
Eastern District of Michigan  
Western District of Michigan  
District of Minnesota  
Northern District of Mississippi  
Southern District of Mississippi  
Eastern District of Missouri  
Western District of *Missouri*  
District of Montana  
District of Nebraska  
District of Nevada  
District of New Hampshire  
District of New Jersey  
District of New Mexico  
Eastern District of New York  
Northern District of New York  
Southern District of New York  
Western District of New York  
Eastern District of North Carolina  
Middle District of North Carolina  
Western District of North Carolina  
District of North Dakota  
Northern District of Ohio  
Southern District of Ohio  
Eastern District of Oklahoma  
Northern District of Oklahoma  
Western District of Oklahoma

District of Oregon  
Eastern District of Pennsylvania  
Middle District of Pennsylvania  
Western District of Pennsylvania  
District of Puerto Rico  
District of Rhode Island  
District of South Carolina  
District of South Dakota  
Eastern District of Tennessee  
Middle District of Tennessee  
Western District of Tennessee  
Eastern District of Texas  
Northern District of Texas  
Southern District of Texas  
Western District of Texas  
District of Utah  
District of Vermont  
Eastern District of Virginia (E)  
Western District of Virginia (W)  
Eastern District of Washington  
Western District of Washington  
Northern District of West Virginia  
Southern District of West Virginia  
Eastern District of Wisconsin  
Western District of Wisconsin  
District of Wyoming

District Courts for the Following Territories:

District Court of the Canal Zone  
District Court of Guam  
District Court for the Northern Mariana Islands  
District Court of the Virgin Islands

*Note:*

A short, all-encompassing and more manageable description for II would be:

“Clerks and deputy clerks of the following: The Supreme Court of the United States, the Courts of Appeals for the First through the Eleventh Circuits and the District of Columbia Circuit, the United States District Courts, the United States Court of Claims, the United States Court of Customs and Patent Appeals, the United States Court of International Trade, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, and the District Court for the Northern Mariana Islands.”

III. Officers of the individual States and other subdivisions as indicated:

*States:*

- Alabama: Secretary of State
- Alaska: Lieutenant Governor; Attorney General; and Clerk of the Appellate Courts
- Arizona: Secretary of State; Assistant Secretary of State
- Arkansas: Secretary of State; Chief Deputy Secretary of State
- California: Secretary of State; any Assistant Secretary of State; any Deputy Secretary of State
- Colorado: Secretary of State; Deputy Secretary of State
- Connecticut: Secretary of the State; Deputy Secretary of the State
- Delaware: Secretary of State; Acting Secretary of State
- Florida: Secretary of State
- Georgia: Secretary of State; Notary Public Division Director
- Hawaii: no authority designated
- Idaho: Secretary of State; Chief Deputy Secretary of State; Deputy Secretary of State
- Illinois: Secretary of State; Assistant Secretary of State; Deputy Secretary of State
- Indiana: Secretary of State; Deputy Secretary of State
- Iowa: Secretary of State; Deputy Secretary of State
- Kansas: Secretary of State; Assistant Secretary of State; any Deputy Assistant Secretary of State
- Kentucky: Secretary of State; Assistant Secretary of State
- Louisiana: Secretary of State
- Maine: Secretary of State; Deputy Secretary of State
- Maryland: Secretary of State
- Massachusetts: Deputy Secretary of State for Public Records
- Michigan: Secretary of State; Deputy Secretary of State
- Minnesota: Secretary of State; Deputy Secretary of State
- Mississippi: Secretary of State; any Assistant Secretary of State
- Missouri: Secretary of State; Deputy Secretary of State
- Montana: Secretary of State; Chief Deputy Secretary of State; Government Affairs Bureau Chief
- Nebraska: Secretary of State; Deputy Secretary of State
- Nevada: Secretary of State; Chief Deputy Secretary of State; Deputy Secretary of State
- New Hampshire: Secretary of State; Deputy Secretary of State
- New Jersey: Secretary of State; Assistant Secretary of State
- New Mexico: Secretary of State
- New York: Secretary of State; Executive Deputy Secretary of State; any Deputy Secretary of State; any Special Deputy Secretary of State
- North Carolina: Secretary of State; Deputy Secretary of State
- North Dakota: Secretary of State; Deputy Secretary of State

Ohio: Secretary of State; Assistant Secretary of State  
Oklahoma: Secretary of State; Assistant Secretary of State; Budget Officer of the Secretary of State  
Oregon: Secretary of State; Deputy Secretary of State; Acting Secretary of State; Assistant Secretary of State  
Pennsylvania: Secretary of the Commonwealth; Executive Deputy Secretary of the Commonwealth  
Rhode Island: Secretary of State; First Deputy Secretary of State; Second Deputy Secretary of State  
South Carolina: Secretary of State  
South Dakota: Secretary of State; Deputy Secretary of State  
Tennessee: Secretary of State  
Texas: Secretary of State; Assistant Secretary of State  
Utah: Lieutenant Governor; Deputy Lieutenant Governor; Administrative Assistant  
Vermont: Secretary of State; Deputy Secretary of State  
Virginia: Secretary of the Commonwealth; Chief Clerk, Office of the Secretary of the Commonwealth  
Washington (State): Secretary of State; Assistant Secretary of State  
West Virginia: Secretary of State; Under Secretary of State; any Deputy Secretary of State  
Wisconsin: Secretary of State; Assistant Secretary of State  
Wyoming: Secretary of State; Deputy Secretary of State

*Other Subdivisions:*

American Samoa: Secretary of American Samoa; Attorney General of American Samoa  
District of Columbia (Washington, D.C.): Executive Secretary; Assistant Executive Secretary; Mayor's Special Assistant and Assistant to the Executive Secretary  
Guam (Territory of): Director, Department of Administration; Acting Director, Department of Administration; Deputy Director, Department of Administration; Acting Deputy Director, Department of Administration  
Northern Mariana Islands (Commonwealth of the): Attorney General; Acting Attorney General; Clerk of the Court, Commonwealth Trial Court; Deputy Clerk, Commonwealth Trial Court  
Puerto Rico (Commonwealth of): Under Secretary of State; Assistant Secretary of State for External Affairs; Assistant Secretary of State; Chief, Certifications Office, Director, Office of Protocol  
Virgin Islands of the United States: no authority designated

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In overeenstemming met artikel 6, tweede lid, van het Verdrag hebben de volgende Staten wijzigingen aangebracht in de eerder aangewezen autoriteiten, welke bevoegd zijn om apostilles als bedoeld in artikel 3, eerste lid, af te leggen:

*Zwitserland* (zie *Trb.* 1973, 71, rubriek J, nr. 18).

Bij nota van 2 december 1981, welke op 4 december 1981 werd ontvangen, heeft Zwitserland medegedeeld dat lijst B (Autorités cantonales) als volgt dient te worden aangevuld:

Canton du Jura: La Chancellerie d'Etat

*Bahamas* (zie *Trb.* 1978, 5, rubriek J, nr. 21).

Bij nota van 24 mei 1982, welke op 9 juni 1982 werd ontvangen, heeft het Gemenebest van de Bahamas medegedeeld dat de titel van de bevoegde autoriteit als volgt gelezen dient te worden:

- (a) Permanent Secretary  
Ministry of External Affairs
- (b) Under Secretary  
Ministry of External Affairs
- (c) Deputy Permanent Secretary  
Ministry of External Affairs.

Uitgegeven de zesentwintigste juli 1982.

*De Minister van Buitenlandse Zaken a.i.,*  
J. DE KONING