

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1984 Nr. 76

A. TITEL

*Overeenkomst tot oprichting van de Afrikaanse Ontwikkelingsbank,
met bijlagen;
Khartoem, 4 augustus 1963*

B. TEKST

De Engelse tekst van de Overeenkomst zoals deze sedert 1982 luidt is geplaatst in *Trb.* 1981, 28.

De volgende Staten hebben de Overeenkomst ondertekend in overeenstemming met artikel 3, letter c (i), van de Bijlage bij de op 17 mei 1979 door de Raad van Bestuur van de Afrikaanse Ontwikkelingsbank aangenomen resolutie no.07:

Frankrijk	1 juli 1982
Oostenrijk	23 juli 1982
Denemarken	7 september 1982
Finland	7 september 1982
Noorwegen ¹⁾	7 september 1982
Zweden ²⁾	7 september 1982
Zwitserland	14 september 1982
Joegoslavië	15 september 1982
Korea	27 september 1982
Koeweit	9 november 1982
Italië	26 november 1982
Brazilië	8 december 1982
Canada	23 december 1982
het Verenigd Koninkrijk van Groot- Britannië en Noord-Ierland	23 december 1982
het Koninkrijk der Nederlanden	28 januari 1983
de Verenigde Staten van Amerika	31 januari 1983
Japan	3 februari 1983

België	15 februari 1983
de Bondsrepubliek Duitsland	16 februari 1983
India	25 oktober 1983
Portugal	8 december 1983
Saoedi-Arabië	15 december 1983
Spanje	13 februari 1984

1) Onder het volgende voorbehoud:

“The Government of Norway retains, in accordance with article 64.3 of the said Agreement, the right to tax salaries and emoluments paid by the Bank to Norwegian citizens, nationals or residents.”.

2) Onder het volgende voorbehoud:

“With reference to article 64.3 of the Agreement Establishing the African Development Bank, Sweden hereby declares that it retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens, nationals or residents of Sweden.”.

C. VERTALING

Zie *Trb.* 1981, 28.

D. PARLEMENT

De Overeenkomst is in overeenstemming met artikel 64, juncto artikel 60, tweede lid, en op de voet van artikel 61, derde lid, van de Grondwet overgelegd aan de Eerste en de Tweede Kamer der Staten-Generaal bij brieven van 20 maart 1981 (*Kamerstukken II 1980/81 – 16 711, nr. 1*).

De toelichtende nota die de brieven vergezelde, is ondertekend door de Minister van Financiën A. P. J. M. M. VAN DER STEE, de Minister voor Ontwikkelingssamenwerking J. DE KONING en de Staatssecretaris van Buitenlandse Zaken D. F. VAN DER MEI.

De goedkeuring door de Staten-Generaal is verleend op 23 april 1981.

E. BEKRACHTIGING

Zie *Trb.* 1981, 28.

De volgende Staten hebben in overeenstemming met artikel 3, letter c (ii), van de Bijlage bij de op 17 mei 1979 door de Raad van Bestuur van de Afrikaanse Ontwikkelingsbank aangenomen resolutie no. 07 een akte van bekrachtiging of aanvaarding met betrekking tot de Overeenkomst en de in bedoelde Bijlage vervatte Algemene Regels nedergelegd bij de Secretaris-Generaal van de Verenigde Naties:

Frankrijk	1 juli 1982
Denemarken ¹⁾	7 september 1982
Finland	7 september 1982
Noorwegen ²⁾	7 september 1982
Zweden ³⁾	7 september 1982
Zwitserland ⁴⁾	14 september 1982
Joegoslavië	15 september 1982
Korea	27 september 1982
Koeweit ⁵⁾	9 november 1982
Italië ⁶⁾	26 november 1982
Canada ⁷⁾	23 december 1982
het Koninkrijk der Nederlanden ⁸⁾	28 januari 1983
(voor Nederland)	
de Verenigde Staten van Amerika ⁹⁾	31 januari 1983
Japan ¹⁰⁾	3 februari 1983
België	15 februari 1983
de Bondsrepubliek Duitsland ¹¹⁾	16 februari 1983
Oostenrijk	10 maart 1983
het Verenigd Koninkrijk van Groot- Brittannië en Noord-Ierland ¹²⁾	27 april 1983
Brazilië	14 juli 1983
India ¹³⁾	6 december 1983
Portugal	15 december 1983
Saoedi-Arabië	15 december 1983
Spanje	13 februari 1984

¹⁾ Met de volgende verklaring:

“According to the main rule of article 17, paragraph 1 (d), in the Agreement establishing the African Development Bank, the proceeds of any financing undertaken by the Bank shall be used only for procurement in Member Countries of goods and services produced in Member Countries.

The declared shipping policy of the Danish 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 group of countries, the aim always being that normal commercial considerations should determine the method and flag of shipment. The Government of Denmark trusts that article 17, paragraph 1 (d), will not be applied contrary to this principle.”

²⁾ Met de volgende verklaring:

“According to article 17, paragraph 1 (d) of the Agreement establishing the African Development Bank, the proceeds of any loan, investment or other financing undertaken in the ordinary operations of the Bank shall be used only for procurement in member countries of goods and services produced in member countries, except for special cases.

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 17, paragraph 1 (d) will not be applied contrary to this principle."

en onder herhaling van het bij de ondertekening gemaakte voorbehoud.

3) Met de volgende verklaring:

"According to the main rule of article 17, paragraph 1 (d) in the Agreement establishing the African 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 17, paragraph 1 (d) 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 17, 1 (d) that it does not conflict with this principle."

en onder herhaling van het bij de ondertekening gemaakte voorbehoud.

4) Onder het volgende voorbehoud:

"In accordance with article 64 (3) of the Agreement, Switzerland retains for itself the right to tax salaries and emoluments paid by the Bank to its nationals, residents of Switzerland."

5) Onder de volgende mededeling:

"It is understood that ratification of the Agreement..... does not mean in any way recognition of Israel by the State of Kuwait. Furthermore no treaty relations will arise between the State of Kuwait and Israel."

6) Onder het volgende voorbehoud:

"The Government of Italy declares, in accordance with article 64 (3) of the Agreement Establishing the African Development Bank (Khartoum, 4 August 1963), amended by Resolution 05-79, that it retains for itself and its constitutional subdivisions the right to tax salaries and emoluments paid to citizens and residents of Italy."

7) Onder het volgende voorbehoud:

"In so accepting the said Agreement, the Government of Canada, pursuant to paragraph 3 of Article 64, hereby retains for itself the right to tax the salaries and emoluments paid by the Bank to Canadian citizens, nationals and residents."

8) Onder de volgende voorbehouden:

"The Kingdom of the Netherlands reserves the right to take into account, for the purpose of assessing the amount of income tax due on income from other sources, the salaries and emoluments paid to the professional staff of the African Development Bank and exempt from taxation under Article 57 of the Agreement. The exemption shall not be deemed applicable to the pensions paid by the Bank."

9) Onder het volgende voorbehoud:

"The United States of America retains for itself and for all political

subdivisions of the United States of America the right to tax salaries and emoluments paid by the African Development Bank to United States citizens or nationals.”.

¹⁰⁾ Onder het volgende voorbehoud:

“The Government of Japan retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to its nationals or residents.”.

¹¹⁾ Met de volgende verklaringen:

“1. [The] Federal Republic of Germany retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to German citizens, nationals or residents.

2. [In] the territory of the Federal Republic of Germany the immunities conferred by article[s] 53 and 56 of the Agreement shall not apply in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Bank or operated on its behalf, or to a traffic offence committed by the driver of such a vehicle.

3. According to the exchange of notes between the African Development Bank and the Federal Republic of Germany executed at Abidjan on 24 January 1983,

(a) the Bank shall not claim exemption from direct taxation, customs duties or taxes having equivalent effect on goods imported or exported for other than its official use;

(b) the Bank shall not claim exemption from taxes and duties which are no more than charges for services rendered, and

(c) the Bank shall sell articles imported under an exemption pursuant to article 57, paragraph 1, of the Agreement in the territory of a member granting the exemption only on the terms agreed with that member.”

“The Agreement shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany.”. (*VN-vertaling*)

¹²⁾ Met de volgende verklaringen:

“1. As Bank telegrams and telephone calls are not defined as Government telegrams and telephone calls in annex 2 to the International Telecommunication Conventions signed at Montreux on 12 November 1965 and at Malaga-Torremolinos on 25 October 1973 and are therefore not entitled by the Conventions to the privileges thereby conferred on Government telegrams and telephone calls, the Government of the United Kingdom, having regard to their obligations under the International Telecommunications Conventions, declare that the privileges conferred by article 55 of the Agreement shall be correspondingly restricted in the United Kingdom but, subject thereto, shall be not less favourable than the United Kingdom affords to international financial institutions of which it is a member.

2. In accordance with the provisions of article 64 (3) of the Agreement, the United Kingdom declares that it retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to its citizens, nationals and permanent residents. The United Kingdom will not accord to consultants the privileges and immunities mentioned in article 56 unless they are experts performing missions for the Bank.

3. In accordance with its current practice in regard to international organizations, the United Kingdom will, pursuant to the terms of article 57 (1) of the Agreement, accord to the Bank the following taxation privileges:

(a) Within the scope of its official activities, the Bank and its property and

income will be exempt from all direct taxes, including income tax, capital gains tax and corporation tax. The Bank will also be exempt from municipal rates levied on its premises with the exception of the proportion which, as in the case of diplomatic missions, represents payments for specific services rendered.

(b) The Bank will be accorded a refund of car tax and value added tax paid on the purchase of new motor cars of United Kingdom manufacture, and value added tax paid on the supply of goods or services of substantial value, necessary for the official activities of the Bank.

(c) Goods the import and export of which by the Bank is necessary for the exercise of its official activities shall be exempt from all duties of customs and excise and other such charges except payments for services. The Bank will be accorded a refund of the duty and value added tax paid on the importation of hydrocarbon oils purchased by the Bank and necessary for the exercise of its official activities.

(d) Exemption in respect of taxes or duties under the preceding sub-paragraphs will be accorded subject to compliance with conditions agreed with Her Majesty's Government. Goods which have been acquired or imported under the above provisions may not be sold, given away or otherwise disposed of in the United Kingdom except in accordance with conditions agreed with Her Majesty's Government.

4. In the territory of the United Kingdom the immunity conferred by article 52 (1) and article 56 (i) shall not apply in relation to a civil action by a third party for damage arising out of an accident caused by a motor vehicle belonging to or operated on behalf of the Bank or a person covered by article 56, as the case may be, or in relation to a traffic offence committed by the driver of such a vehicle.

5. Her Majesty's Government are not at the moment able to implement article 57 (3) (ii) of the Agreement as this requires an amendment to existing legislation. Her Majesty's Government hope however that they will be in a position to implement it in the near future."

¹³⁾ Onder het volgende voorbehoud:

"[The] Government of India retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the African Development Bank to the citizens, nationals or residents of India."

F. TOETREDING

Zie *Trb.* 1981, 28.

G. INWERKINGTREDING

Zie *Trb.* 1981, 28.

De Overeenkomst zoals gewijzigd door resolutie 05/79 is op 7 mei 1982 voor alle regionale leden van de Bank van kracht geworden.

De Overeenkomst is op 28 januari 1983 in werking getreden voor het Koninkrijk der Nederlanden (voor Nederland).

J. GEGEVENS

Zie *Trb.* 1981, 28.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Handvest der Verenigde Naties zie ook *Trb.* 1981, 174.

De volgende Staten hebben op de daarbij vermelde data de wijzigingen vervat in de op 17 mei 1979 door de Raad van Bestuur van de Afrikaanse Ontwikkelingsbank aangenomen resolutie 05 aanvaard:

Egypte	27 juni 1979
Tunesië	27 juni 1979
Djiboeti	29 juni 1979
Senegal	10 juli 1979
Mali	16 juli 1979
Kenya	25 juli 1979
Malawi	23 augustus 1979
Mauritius	27 september 1979
Sierra Leone	26 oktober 1979
Equatoriaal Guinee	14 november 1979
Sao Tomé en Príncipe	19 november 1979
Lesotho	20 november 1979
Comoren	30 november 1979

Angola	7 januari 1981
Centrafrikaanse Republiek	15 januari 1981
Tsjaad	7 september 1981
Madagascar	18 december 1981
Nigeria	6 mei 1982

De datum van toelating als lid van de Bank is voor de hierondergenoemde Staten:

Canada	30 december 1982
Denemarken	30 december 1982
Finland	30 december 1982
Frankrijk	30 december 1982
Joegoslavië	30 december 1982
Koeweit	30 december 1982
Korea	30 december 1982
Noorwegen	30 december 1982
Zweden	30 december 1982
Zwitserland	30 december 1982
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Brazilië	14 juli 1983
India	6 december 1983
Portugal	15 december 1983
Saoedi-Arabië	15 december 1983
Spanje	20 maart 1984

Uitgegeven de eenendertigste juli 1984.

De Minister van Buitenlandse Zaken a.i.,

G. M. V. VAN AARDENNE