

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 1989 Nr. 61

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A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Internationale Financieringsmaatschappij (IFC) inzake het "African Training and Management Services (ATMS) Project" van het Ontwikkelingsprogramma van de Verenigde Naties;  
Amsterdam, 13 april 1989*

B. TEKST

**Treaty between the Kingdom of the Netherlands and the International Finance Corporation (IFC) concerning the African Training and Management Services (ATMS) Project of the United Nations Development Programme**

The Government of the Kingdom of the Netherlands and the International Finance Corporation;

Considering that the United Nations Development Programme has decided to operate a technical assistance project under project number RAF/86/002/D/01/142, known as the African Training and Management Services Company (ATMS) Project;

that the International Finance Corporation, by virtue of the Project Document dated ..., 1988<sup>1)</sup>, agreed between the United Nations Development Programme and the International Finance Corporation, is the Executing Agency for the United Nations Development Programme for this project;

that the project is to be carried out by a special purpose corporation with domicile in the Netherlands established under Netherlands' law, called "African Management Services Company BV (AMSCO)", for which purpose the International Finance Corporation has concluded a Shareholders Agreement with other

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<sup>1)</sup> De datum van het document is 13 april 1989.

institutions and corporations financing development cooperation activities;

that it is anticipated that the African Management Services Company BV will not distribute its profits, made during the period this Treaty is in force to its shareholders, but will retain these profits as reserves and/or apply them to this project;

And that it is desirable to grant certain privileges for this United Nations Development Programme Project;

Have agreed as follows:

#### Article 1

For the purpose of this Treaty:

a) "AMSCO" means the African Management Services Company BV;

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

c) "IFC" means the International Finance Corporation;

d) "Staff Member" means a person appointed or employed by AMSCO, other than a person recruited and assigned to hourly rates of pay;

e) "Official activities of AMSCO" include its administrative activities and activities undertaken pursuant to the United Nations Development Programme Project, as defined in the ATMS Project Document, and the IFC-AMSCO Implementation Agreement.

#### Article 2

1) Within the scope of its official activities, AMSCO, its assets, income and other 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) AMSCO shall, on application, be granted exemption from motor vehicle tax in respect of its motor vehicles used for its official activities.

3) AMSCO shall be accorded a refund of value added tax paid on the supply of goods, with the exception of motor vehicles, necessary for its official activities. 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 Company. AMSCO 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 Company and necessary for its official activities.

### Article 3

Goods including motor vehicles whose import or export by AMSCO is necessary for the exercise of its official activities shall be exempt from all import duties and taxes and from all prohibitions and restrictions on import or export.

### Article 4

Within the scope of its official activities, AMSCO shall be exempt from stock-exchange tax, insurance tax, tax on capital duty and real property transfer tax.

### Article 5

1) The provisions of Article 2 and 3 shall not apply to taxes and duties that are no more than charges for public utility services;

2) Goods acquired under Article 2, 4 or imported under Article 3 shall not be sold given away, or otherwise disposed of, except in accordance with conditions agreed with the Government;

3) No exemption shall be granted under Article 2, 3 or 4 in respect of goods purchased or imported, or services provided, for the personal benefit of the staff members of AMSCO.

### Article 6

The archives of AMSCO shall be inviolable. The president of AMSCO may waive the inviolability.

### Article 7

1) The Staff Members:

a) shall in accordance with the regulations in force have relief from import duties and taxes (except payments for services) in respect of their furniture and personal effects, including one motor vehicle, at the time of first taking up their post in the Netherlands and shall have the right on the termination of their functions in the Netherlands to export with relief from duties and taxes their furniture and personal effects, subject, in both cases, to the conditions agreed with the Government;

b) shall be exempt from Netherlands income tax on the salaries and emoluments paid by AMSCO;

2) In the event that AMSCO operates a system for the payment of pensions and annuities to its former Staff Members and their

dependents, the provisions of paragraph (1b) of this Article shall not apply to such pensions and annuities.

#### Article 8

Privileges are granted to Staff Members in the interest of AMSCO for the purposes of its official activities and not for the personal benefit of the individuals themselves.

#### Article 9

AMSCO shall co-operate at all times with the appropriate authorities in order to facilitate the proper administration of national legislation, and to prevent any abuse of the privileges and facilities provided for in this Treaty.

#### Article 10

1) Provided AMSCO establishes its own social security scheme or adheres to a social security scheme, AMSCO and its Staff Members to whom the aforementioned scheme applies 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.

2) The provisions of paragraph 1 shall apply mutatis mutandis to the spouse, children and other relatives belonging to the household of the persons referred to in paragraph 1, unless they are employed or self-employed in the Netherlands or receive Netherlands social security benefit.

3) Any resident of the Netherlands who receives benefit under AMSCO's social security scheme as referred to in paragraph 1 may be exempted from the Netherlands national insurance schemes by the "Sociale Verzekeringsbank" (Social Insurance Bank) at his or her request, unless he or she is employed or self-employed in the Netherlands.

#### Article 11

1) The non-Netherlands Staff Members:

a) shall enjoy exemption from aliens' registration formalities and shall not require a residence permit provided that they hold the personal identity card referred to in paragraph two of this Article; the same shall apply to non-Netherlands members of their families forming part of their households;

b) shall not require a work permit.

2) The Staff Members and non-Netherlands members of their families forming part of their households shall hold a personal identity card issued by AMSCO 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 12

AMSCO shall provide the Ministry of Foreign Affairs on a regular basis with a list of Staff Members and shall inform the Ministry of the appointment and dismissal of Staff Members individually.

#### Article 13

This Treaty may be suspended or terminated as follows:

1. a) by the Government in the event:
  - (i) AMSCO's profits are not retained nor applied to the official activities of AMSCO; or
  - (ii) AMSCO carries out any activities other than those contemplated in the ATMS Project Document, and the Implementation Agreement;
- b) by IFC in the event of a default by AMSCO of any of its obligations under the Implementation Agreement or of any provision of the Project Document.

2. The Government and IFC shall consult with each other before suspending or terminating the Treaty.

#### Article 14

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 IFC, and the third arbitrator, who shall be the chairman, shall be appointed by the said 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 shall decide on the arbitration procedures to be followed.

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

#### Article 15

As regards the Kingdom of the Netherlands this Treaty shall apply only to the Kingdom in Europe.

#### Article 16

1) This Treaty is concluded for a period of ten years.

2) Towards the end of this period the Parties to this Treaty will consider the desirability of any amendments to be made.

3) In the event no amendments are deemed desirable and the Treaty has not been denounced 6 months before expiry of the 10 years period, it shall be deemed to be prolonged for successive periods of one year. During those further periods it may be denounced 6 months before the end of such periods.

4) The Treaty will automatically be terminated at the dissolution of AMSCO.

#### Article 17

This Treaty shall enter into force on the 30th day after the day of its signature.

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

DONE at Amsterdam, 13 april 1989 in two copies in the English language.

*For the Government of the Kingdom of the Netherlands*

(sd.) P. BUKMAN

*For the International Finance Corporation*

(sd.) WILLIAM S. RYRIE

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#### D. PARLEMENT

Het Verdrag behoeft niet de goedkeuring van de Staten-Generaal ingevolge additioneel artikel XXI, eerste lid, onderdeel b, van de Grondwet, junctis artikel 62, eerste lid, onderdeel a, van de Grondwet naar de tekst van 1972 en 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). Dit artikel 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 I bedoelde Verdrag worden toegekend aan de Verenigde Naties.”.

Deze Wet is gecontrasigneerd door de Minister van Buitenlandse Zaken W. F. 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 het Verdrag zullen ingevolge artikel 17 op 13 mei 1989 in werking treden.

Wat het Koninkrijk der Nederlanden betreft, zal het Verdrag ingevolge artikel 15 alleen voor Nederland gelden.

#### J. GEGEVENS

De Internationale Financieringsmaatschappij is opgericht bij een te Washington op 11 april 1955 tot stand gekomen Overeenkomst, waarvan tekst en vertaling zijn geplaatst in *Trb.* 1955, 162; zie ook, laatstelijk, *Trb.* 1966, 211.

Het Ontwikkelingsprogramma van de Verenigde Naties is bij Resolutie 2029 (XX) van 22 november 1965 door de Algemene Vergadering van de Verenigde Naties ingesteld.

In overeenstemming met artikel 5, tweede zin, van de Rijkswet van 22 juni 1961 (*Stb.* 207), houdende regeling inzake de bekendmaking van internationale overeenkomsten en van besluiten van volkenrechtelijke organisaties, heeft de Minister van Buitenlandse Zaken

bepaald dat het bovenstaande Verdrag in Nederland bekend zal zijn gemaakt op de veertiende dag na die der uitgifte van dit Tractatenblad.

Uitgegeven de *negenentwintigste* april 1989.

*De Minister van Buitenlandse Zaken,*

H. VAN DEN BROEK