

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 1989 Nr. 74

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A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Universiteit van de Verenigde Naties inzake het Instituut voor nieuwe technologieën van de Universiteit van de Verenigde Naties;  
's-Gravenhage, 11 mei 1989*

B. TEKST

**Agreement between the Kingdom of the Netherlands and the United Nations University regarding the United Nations University Institute for New Technologies**

The Government of the Kingdom of the Netherlands  
and  
the United Nations University,

Recalling that the Netherlands is a party to the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946;

Considering that the said Convention is applicable to the United Nations University in accordance with Article XI of its Charter;

Noting that the Council of the United Nations University decided at its 31st session held in Brasilia from 26 to 30 July 1988 to establish the Institute for New Technologies (INTECH) as a research and training centre of the University and to accept the offer of the Government of the Netherlands to host the said Institute in Maastricht, the Netherlands;

Considering that the Institute for New Technologies (INTECH) is part of the United Nations University;

Desiring to ensure by means of a supplemental agreement to the said Convention that the Institute's legal status in the Netherlands, as well as the content of the privileges and immunities and the measures for their implementation shall be satisfactorily regulated;

Have agreed as follows:

## Article I

### *Definitions*

In this Agreement:

a. "the University" means the United Nations University, established by Resolution 2951 (XXVII) of the General Assembly of the United Nations of 11 December 1972;

b. "Government" means the Government of the Netherlands;

c. "the Institute" means the Institute for New Technologies, also to be known as INTECH, a research and training centre of the University;

d. "the Rector" means the Rector of the University and, during his absence, any official designated to act on his behalf;

e. "the Director" means the Director of the Institute or in his absence any official designated to act on his behalf, to be notified to the Government by the Director;

f. "appropriate authorities" means the national, regional or local authorities of the Netherlands, as the context may require, in accordance with the law of the Netherlands;

g. "premises of the Institute" means land, buildings and parts of buildings normally occupied by the Institute for the fulfilment of its official functions;

h. "official activities" means the Institute's activities pursuant to its Statute and includes its administrative activities;

i. "the Board" means the Board of the Institute as established under the Statute of the Institute;

j. "personnel of the Institute" means the Director and professional and administrative personnel of the Institute;

k. "experts" means persons appointed by or for the purpose of the Institute other than personnel coming within the scope of sub-paragraph j.

## Article II

### *Legal status*

The Institute shall have the legal status necessary for the realization of its purposes and activities. It shall, in particular, have the capacity to enter into agreements, contracts and arrangements, to acquire and

dispose of immovable and movable property, and institute legal proceedings.

### Article III

#### *Premises*

The premises of the Institute shall be inviolable. Any person authorized to enter any place under any legal provision or on the strength of the law shall not exercise that authority in respect of the premises of the Institute unless permission to do so has been given by or on behalf of the Director. Nothing in this Agreement shall prevent the reasonable application by the appropriate authorities from taking measures for the protection of the premises in case of fire or other emergencies requiring prompt protective action.

In the other cases the Director or the person acting on his behalf shall give permission if it is possible to do so without prejudice to the interests of the Institute.

### Article IV

#### *Inviolability of archives*

The archives of the Institute shall be inviolable.

The term "archives" includes all records, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Institute, wherever located.

### Article V

#### *Immunity of the Institute*

1. The Institute shall have immunity from jurisdiction except to the extent that such immunity has been expressly waived in a particular case.

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

### Article VI

#### *Communications*

1. The Institute shall have the right to use codes and to dispatch and receive official correspondence and other official communications by

courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

2. No censorship shall be applied to the official correspondence and other official communications of the Institute.

## Article VII

### *Publications*

1. a. The Institute has the right to publish freely within the Netherlands in the fulfilment of its purposes.

b. It is, however, understood that the Institute shall respect the laws and regulations of the Netherlands and the international conventions to which the Netherlands is a party, relating to intellectual property.

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

## Article VIII

### *Exemption from taxes and duties*

1. The Institute, 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. The Institute shall be granted exemption from motor vehicle tax in respect of its motor vehicles used for its official activities. In order to apply this exemption the Institute shall file a request for each purchase to which the exemption is applicable.

3. The Institute shall be accorded a refund of value added tax paid on the supply of goods or services of substantial value, necessary for the official activities of the Institute with the exception of motor vehicles. 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 furnishings of the premises of the Institute.

The Institute 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 Institute and necessary for its official activities.

4. Goods, including motor vehicles, whose import or export by the Institute 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.

5. The provisions of the preceding sections of this Article shall not apply to taxes and duties that are no more than charges for public utility services.

6. Goods acquired or imported under the preceding sections of this Article shall not be sold, given away or otherwise disposed of, except in accordance with conditions agreed with the Government.

## Article IX

### *Financial facilities*

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Institute may:

- a. hold funds, gold or currency of any kind and operate accounts in any currency;
- b. freely transfer its funds, gold or currency to or from the Netherlands or within the Netherlands and convert any currency held by it into any other currency.

## Article X

### *Social security*

1. Provided the Institute establishes its own social security scheme or adheres to a social security scheme, the Institute and the members of its personnel 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 the Institute'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 XI

*Entry, stay and departure*

1. The Government shall facilitate the entry, stay and departure of the persons listed below and their spouses and children dependent on them for purposes of official business with respect to the Institute of such persons related to the Institute:

- a. members of the Board;
- b. the Director, personnel and experts of the Institute;
- c. fellows and trainees of the Institute;
- d. members of the Council of the University and the Rector and other personnel of the University;
- e. officials of the United Nations, or of one of the specialized agencies or of the International Atomic Energy Agency, having official business with the Institute;
- f. personnel of the research and training centres and programmes and associated institutions of the University, and persons participating in the programmes of the University;
- g. other persons invited by the Institute of official business.

2. No act performed by any person referred to in paragraph 1 in his official capacity with respect to the Institute shall constitute a reason for preventing his entry into or departure from the territory of the Netherlands or for requiring him to leave such territory.

3. This Article shall not prevent the requirement of reasonable evidence to establish that persons claiming the treatment provided for in this Article come within the classes described in paragraph 1.

## Article XII

*The Board*

Members of the Board 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 personal arrest or detention;
- b. immunity from jurisdiction in respect of acts, including words written and spoken, done by them in the exercise of their functions, even after they have ceased to be members of the Board;
- c. inviolability for all their official papers and documents;
- d. the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to the officials of foreign governments on temporary official missions.

### Article XIII

#### *Director*

In addition to the privileges and immunities of the personnel of the Institute, provided for in this Agreement, the Director, and in his absence the official designated to act on his behalf, shall enjoy the privileges and immunities to which a diplomatic agent is entitled, unless in either case he is a Netherlands national or a permanent resident of the Netherlands.

### Article XIV

#### *Personnel of the Institute*

The personnel of the Institute shall:

a. have immunity from jurisdiction in respect of words spoken or written and all acts performed by them in their official capacity, even after they have left the service of the Institute;

b. enjoy inviolability for all their official papers and documents;

c. enjoy, together with the members of their families forming part of their households, the same repatriation facilities in time of international crisis as diplomatic agents;

d. be accorded the same treatment in respect of exchange facilities as is accorded by the Netherlands to staff members of the United Nations;

e. 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 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.

### Article XV

#### *Registration, permits*

1. Non-Netherlands personnel of the Institute

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 2 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 personnel of the Institute and non-Netherlands members of

their families forming part of their households shall hold a personal identity card issued by the Institute 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 XVI

### *Experts*

Experts other than the members of the personnel of the Institute referred to in Article XIV, in the exercise of their functions in connection with the Institute or in carrying out missions for the Institute, shall enjoy the following privileges and immunities, to the extent that these are necessary for the exercise of their functions, including during journeys made in the exercise of their functions and in the course of such missions:

- a. immunity from personal arrest or detention;
- b. immunity from jurisdiction in respect of acts, including words written and spoken, done by them in the exercise of their functions, even after they have ceased to be employed by the Institute;
- c. inviolability for all their official papers and documents;
- d. the same facilities as regards monetary and exchange regulations and as regards their personal luggage as are accorded to the officials of foreign governments on temporary official missions.

## Article XVII

### *Taxation of income*

1. The personnel of the Institute shall be exempt from Netherlands income tax on the salaries and emoluments paid by the Institute.
2. In the event that the Institute operates a system for the payment of pensions and annuities to its former personnel and their dependents, the provisions of paragraph 1 of this Article shall not apply to such pensions and annuities.

## Article XVIII

### *Reporting on the personnel of the centre*

1. The Institute shall communicate to the Ministry of Foreign Affairs of the Kingdom of the Netherlands from time to time a list of its personnel.
2. The Institute shall inform the Ministry of Foreign Affairs of the

Kingdom of the Netherlands in each instance of the appointment or departure of members of its personnel.

## Article XIX

### *Purpose and scope of privileges and immunities*

1. Privileges and immunities are granted by this Agreement in the interests of the Institute and not for the personal benefit of the individuals themselves.

2. The Director, on behalf of the Rector, has the right and the duty to waive such immunities (other than his own and those of the members of the Board) in any case where the immunity would impede the course of justice, and where it can be waived without prejudice to the interests of the Institute. In respect of the Director and the members of the Board the Rector has a similar right and duty.

## Article XX

### *Arbitration*

The Institute shall submit to arbitration any dispute:

- a. arising out of contracts or other disputes of a private law character to which the Institute is a party;
- b. involving a member of the personnel of the Institute or an expert, and in which the person concerned can claim immunity from jurisdiction under Articles XIII, XIV a) or XVI b) if this immunity is not waived in accordance with Article XIX, paragraph 2.

## Article XXI

### *Settlement of disputes*

1. Any dispute between the Parties concerning the interpretation or application of this Agreement or of any supplemental Agreement which cannot be settled amicably, shall be submitted, at the request of either Party to the dispute, to an arbitral tribunal, composed of three members. Each Party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator as their chairman.

2. If one of the Parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other Party to make such an appointment, the other Party may invite the President of the International Court of Justice to make the necessary appointment.

3. If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, either Party may invite the President of the International Court of Justice to make the necessary appointment.

4. Unless the Parties decide otherwise, the tribunal shall determine its own procedure.

5. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the Parties to the dispute.

## Article XXII

### *General provisions*

1. Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of the Institute and of all persons enjoying such privileges and immunities to observe the laws and regulations of the Netherlands. They also have a duty not to interfere in the internal affairs of the Netherlands.

2. The Institute shall co-operate at all times with the appropriate authorities to facilitate the proper administration of justice and prevent the occurrence of any abuse in connection with the privileges and immunities mentioned in this Agreement.

3. This Agreement shall be construed in the light of its primary purpose of enabling the Institute to discharge fully and efficiently its functions.

4. Consultations with respect to the revision of and amendments to this Agreement shall be entered into at the request of the University or the Government. Any such revision or amendment shall be made by mutual consent.

5. The University and the Government may enter into such supplemental agreements as may be necessary.

6. This Agreement shall enter into force on an agreed date when the Parties have notified each other that the procedures necessary to this end have been completed. It shall remain in force for an indefinite period.

7. This Agreement shall cease to be in force:

- a. by mutual consent of the University and the Government; or
- b. if the Institute is removed from the territory of the Netherlands, on the understanding that the relevant provisions in connection with the orderly termination of the operations of the Institute in the Netherlands and the disposal of its property therein shall remain applicable as long as necessary.

8. With respect to the Kingdom of the Netherlands this Agreement shall apply to the Kingdom in Europe only.

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

DONE at The Hague, in duplicate, in the English language, on this 11th day of May 1989.

*For the Government of the Kingdom of the Netherlands*

(sd.) P. BUKMAN

*For the United Nations University*

(sd.) HEITOR G. DE SOUZA

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#### D. PARLEMENT

De Overeenkomst 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 voor 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 1 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 de Overeenkomst zullen ingevolge artikel XXII, zesde lid, in werking treden op een datum overeen te komen wanneer

de Partijen elkaar ervan in kennis hebben gesteld dat de daartoe benodigde procedures zijn voltooid.

Wat het Koninkrijk der Nederlanden betreft, zal de Overeenkomst in gevolge artikel XXII, achtste lid, alleen voor Nederland gelden.

#### J. GEGEVENS

Het besluit tot oprichting van de Universiteit van de Verenigde Naties (UNU) is vervat in resolutie 2951 (XXVII) van de Algemene Vergadering van de Verenigde Naties d.d. 11 december 1972. Het Handvest van de UNU, naar welk Handvest wordt verwezen in de preambule tot de onderhavige Overeenkomst, is op 6 december 1973 aangenomen door de Algemene Vergadering bij resolutie 3081 (XXVIII).

Van het op 13 februari 1946 te Londen tot stand gekomen Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties, naar welk Verdrag wordt verwezen in de preambule tot de onderhavige Overeenkomst, zijn tekst en vertaling bekendgemaakt in Stb. I 224. Zie ook, laatstelijk, *Trb.* 1979, 35.

Van het op 26 juni 1945 te San Francisco tot stand gekomen Statuut van het Internationaal Gerechtshof, naar welk Statuut in artikel XXI van de onderhavige Overeenkomst wordt verwezen, zijn de Engelse en de Franse tekst geplaatst in *Trb.* 1971, 55 en is de herziene vertaling in het Nederlands geplaatst in *Trb.* 1987, 114.

Uitgegeven de vijftiende juni 1989.

*De Minister van Buitenlandse Zaken,*

H. VAN DEN BROEK