

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1994 Nr. 219

A. TITEL

Verdrag tussen het Koninkrijk der Nederlanden en de Wereldgezondheidsorganisatie inzake de Eenheid in Bilthoven van het Regionaal Bureau voor Europa van de Wereldgezondheidsorganisatie; Kopenhagen, 12 september 1994

B. TEKST

Agreement between the Kingdom of the Netherlands and the World Health Organization concerning the Unit at Bilthoven of the Regional Office for Europe of the World Health Organization

The Government of the Kingdom of the Netherlands and
The World Health Organization (hereinafter referred to as the "Contracting Parties"),

Considering the Agreement between the Government of the Netherlands and the World Health Organization of 13 June 1990¹⁾,

Taking into account that the Agreement provides for the establishment of a Unit of the Regional Office for Europe of the World Health Organization, at Bilthoven, the Netherlands,

Bearing in mind that Article VI of the aforesaid Agreement provides that the legal status, privileges and immunities of the Unit shall be governed by the Convention on the Privileges and Immunities of the Specialized Agencies, and Annex VII, adopted by the First World Health Assembly on 17 July 1948, and that individual or specific privileges, not covered by this Convention, make further provisions necessary;

Desiring, therefore, to conclude an Agreement for the purpose of determining such individual or specific privileges to be granted by the Government of the Kingdom of the Netherlands with respect to the Unit of the Regional Office for Europe of the WHO;

¹⁾ De tekst van dit Verdrag ligt ter inzage op de Directie Verdragen van het Ministerie van Buitenlandse Zaken.

Have agreed as follows:

Article 1

Definitions

a) "the Agreement of 1990" means the Agreement between the Government of the Netherlands and the World Health Organization of 13 June 1990;

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

c) "the WHO" means the World Health Organization;

d) "the Regional Office" means the Regional Office for Europe of the WHO;

e) "Member" means a Member or an Associate Member of WHO, as well as a territory or group of territories which, without being an Associate Member, is represented and participates in the Regional Committee of WHO in accordance with Article 47 of its Constitution;

f) "the Unit" means WHO acting through the Regional Office, in so far as it relates to the Unit established by the Agreement of 1990;

g) "Staff member", as used herein and in the Agreement of 1990, means a person appointed or recruited for employment with the Unit for the carrying out of its official duties, other than persons recruited locally and assigned to hourly rates of pay;

h) "Official activities of the Unit" means those activities undertaken pursuant to the Agreement of 1990, including the administrative activities of the Unit established by the Agreement of 1990;

i) "the premises of the Unit" means buildings and parts of buildings, as well as conference facilities in use outside of these buildings, normally occupied by the Unit for the fulfilment of its official functions;

j) "Experts" means persons, other than those referred to in subparagraph g of this Article, performing official missions for the Unit;

k) "the Director" means the Director of the Unit established by the Agreement of 1990;

l) "the Regional Director" means the Regional Director of the European Office of WHO;

m) "the Convention" means the Convention on the Privileges and Immunities of the Specialized Agencies of 13 February 1946 and Annex VII.

Article 2

Application of the Convention

Except as otherwise provided in this Agreement, the status, privileges and immunities of the Unit shall be governed by the provisions of the Convention.

Article 3

Inviolability of the premises of the Unit

With respect to section 5 of the Convention, the following shall also apply:

1. 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 Unit unless permission to do so has been given by or on behalf of the Director-General of the WHO or the Regional Director as his duly authorized representative. Such permission may, however, be assumed in case of fire or other emergencies requiring prompt protective action.

2. In other cases the Director-General of the WHO or the Regional Director acting on his behalf, shall give serious consideration to a request for permission from the Netherlands authorities to enter the premises of the Unit, without prejudice to the interests of the Unit.

Article 4

Inviolability of the archives

With respect to section 6 of the Convention, the inviolability of the archives shall be understood to apply to all records, correspondence, documents, manuscripts, photographs, films, recordings and computer data and computer files belonging to or held by the Unit.

Article 5

Immunity from juridical proceedings

With respect to section 4 of the Convention, immunity shall, in any event, not extend to 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 Unit or to a motor-traffic offence involving such a vehicle.

Article 6

Publications

The circulation of publications and other information material sent by or to the Unit, in the fulfilment of its purposes, shall not be restricted in any way.

Article 7

Exemption from taxes and duties

With respect to section 10 of the Convention, the following shall also apply:

1. In respect of taxes and duties the Unit shall:

a) enjoy exemption from stock-exchange tax, insurance tax and tax on capital duty;

b) 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 Unit shall file a request for each purchase to which this exemption is applicable;

c) be exempt from value-added tax paid on any goods, including motor vehicles, or services of substantial value, which are necessary for its official activities. Such claims for exemption will be made only in respect of goods or services supplied on a recurring basis or involving considerable expenditure;

d) be exempt from excise duty included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels purchased by the Unit and necessary for its official activities;

e) enjoy exemption from real property-transfer tax for the obtainment of the accommodation of the premises of the Unit provided that the activities performed from this real property are within the scope of the official functions of the Unit;

f) be exempt from the Tax on Private Passenger Vehicles and Motorcycles (Belasting van personenauto's en motorrijwielen, BPM) with respect to motor vehicles for its official activities.

2. The exemptions provided for in sub-paragraphs c and d above may be granted by way of a refund. The exemptions provided for in paragraph 1 shall apply in accordance with the regulations in force.

3. Goods acquired or imported under paragraph 1 of this Article shall not be sold, given away, or otherwise disposed of, except in accordance with conditions agreed upon with the Government.

Article 8

Representatives of members

With respect to section 13(a) of the Convention, the immunity of representatives of Members shall not apply in case of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or driven by him or her.

Article 9

Staff members

1. With respect to section 19 of the Convention, the following shall also apply:

a) the immunity referred to in paragraph (a) thereof shall apply, even after staff members have left the service of the Unit. This immunity shall

not apply in case of a motor-traffic offence committed by a staff member nor in the case of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or driven by him or her;

b) staff members shall enjoy inviolability of all their official papers and documents;

c) staff members who are non-residents shall, in accordance with the regulations in force, have relief from duties and taxes (except payments for services) in respect of import of their furniture and personal effects, including motor vehicles, at the time of first taking up their post in the Netherlands and the right on the termination of their function 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 and the regulations in force applicable to international organizations situated within the territory of the Kingdom of the Netherlands;

d) The Director and his Deputy shall, together with members of the family forming part of his or her household, not being servants, enjoy the privileges and immunities to which a head of a diplomatic mission in the Kingdom of the Netherlands is entitled, unless he or she is either a Netherlands national or a permanent resident of the Netherlands;

e) Staff members of rank P.5 and above shall enjoy the same privileges and immunities as those accorded to diplomatic agents of comparable rank of diplomatic missions established in the Kingdom of the Netherlands, unless he or she is either a Netherlands national or a permanent resident in the Netherlands;

f) The members of the family referred to in sub-paragraph d of this Article shall not, when they practise a professional or commercial activity for personal profit, enjoy immunity from administrative and civil jurisdiction in respect of acts performed in the course of or in connection with such activities. However, the immunity with regard to the execution of the judgment shall stand unless waived in accordance with section 22 of the Convention;

g) With regard to activities referred to in sub-paragraph f of this Article, the persons concerned shall neither enjoy any fiscal privilege nor exemption from the Netherlands social security provisions;

h) Except insofar as additional immunities may be granted by the Netherlands Government, the Director who is a Netherlands national or permanently resident in the Netherlands, shall enjoy only immunity from jurisdiction and inviolability in respect of official acts performed in the exercise of his or her functions for the Unit.

2. In the event that the Unit operates a system for the payment of pensions and annuities to its former staff members and their dependants, the exemption from Dutch income tax for salaries and emoluments paid by the Unit shall not apply to such pensions and annuities.

Article 10

Experts

With respect to Annex VII, section 2, of the Convention, the immunities provided therein shall not apply to civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or driven by him or her.

Article 11

Notification

With respect to section 18 of the Convention, the following shall also apply:

1. The Unit shall notify the Ministry of Foreign Affairs of:
 - a. the arrival of a Director and staff members with the Unit, as well as their final departure or the termination of their functions with the Unit;
 - b. the arrival and final departure of members of the family forming part of the household of the persons referred to in sub-paragraph a and, where appropriate, the fact that a person becomes or ceases to be a member of the family.
2. The privileges and immunities granted to the respective categories of persons referred to under paragraph 1 of this Article shall be implemented upon arrival of such persons and shall be repealed two weeks after notification to the Ministry that either the person has terminated his or her function with the Unit, or has ceased to be a member of the family of a person referred to under paragraph 1, sub-paragraph a. In any case, privileges and immunities shall be repealed immediately after final departure of the persons concerned.

Article 12

Social security

1. The Unit and its staff members shall be exempt from social security provisions in force in the Netherlands, unless the staff member takes up a gainful activity in the Netherlands.
2. The provisions of paragraph 1 of this Article shall apply, *mutatis mutandis*, to family members forming part of the households of the persons referred to in paragraph 1, unless they are employed in the Netherlands by an employer other than the WHO or are in the domestic service of the aforesaid household.

Article 13

General provisions

This Agreement shall be implemented and interpreted in the light of its primary purpose of enabling the Unit to discharge fully and efficiently its functions.

Article 14

Implementation, modification and revision

At the request of either Contracting Party, consultations shall take place with respect to the implementation, modification or revision of this Agreement.

Article 15

Termination

This Agreement shall be terminated in the event of the premises of the Unit being moved from the territory of the Netherlands. The provisions of this Agreement relevant in connection with the orderly termination of the operations of the Unit in the Netherlands and the disposal of its property shall, however, remain applicable as long as necessary, but no longer than six months after notification to the Government that the Unit shall terminate its operations in the Netherlands.

Article 16

Entry into force

1. This Agreement shall enter into force on the day after both Contracting Parties have notified each other in writing that the legal requirements for entry into force have been complied with.
2. With respect to the Kingdom of the Netherlands this Agreement shall apply to the part of the Kingdom in Europe only.

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

DONE at Copenhagen on 12 September 1994 in duplicate, in the English language.

(sd.) E. G. TERPSTRA

For the Government of the Kingdom of the Netherlands

(sd.) H. NAKAJIMA

For the World Health Organization

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), junctis artikel 91 van de Grondwet en artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen, behoeft het onderhavige Verdrag 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 het in artikel 1 bedoelde Verdrag wordt 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

Het Verdrag zal ingevolge artikel 16, eerste lid, in werking treden op de dag nadat beide Verdragsluitende Partijen elkaar schriftelijk hebben medegedeeld dat aan de wettelijke vereisten voor de inwerkingtreding is voldaan.

Wat het Koninkrijk der Nederlanden betreft, zal het Verdrag ingevolge artikel 16, tweede lid, alleen voor Nederland gelden.

J. GEGEVENS

De Wereldgezondheidsorganisatie is opgericht bij een op 22 juli 1946 te New York tot stand gekomen Statuut. De Franse en Engelse tekst, alsmede de vertaling, van dat Statuut zijn bekendgemaakt bij Koninklijk besluit van 10 mei 1948 in *Stb.* I 182; zie ook, laatstelijk, *Trb.* 1986, 162.

Van het op 21 november 1947 te New York tot stand gekomen Verdrag nopens de voorrechten en immunititeiten van de gespecialiseerde organisaties, naar welk Verdrag onder meer in de preambule tot het onderhavige Verdrag wordt verwezen, zijn tekst en vertaling bekendgemaakt bij Koninklijk besluit van 11 februari 1949 in *Stb.* J. 67. Tekst en vertaling van het op 17 juli 1948 aangenomen Aangangsel VII bij het Verdrag, naar welk Aangangsel eveneens in de preambule tot het onderhavige Verdrag wordt verwezen, zijn geplaatst in *Trb.* 1951, 160. Zie voor het Verdrag ook, laatstelijk, *Trb.* 1994, 211.

Uitgegeven de zeventiende oktober 1994.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO