

36 (1977) Nr. 3

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1996 Nr. 67

A. TITEL

*Verdrag inzake het verbod van militair of enig ander vijandelijk gebruik van milieuvveranderingstechnieken, met bijlage;
Genève, 18 mei 1977*

B. TEKST

De Engelse en de Franse tekst van het Verdrag, met bijlage, zijn geplaatst in *Trb.* 1977, 141; zie ook *Trb.* 1983, 68.
Voor de ondertekeningen zie *Trb.* 1977, 141 en *Trb.* 1983, 68.

C. VERTALING

Zie *Trb.* 1977, 141.

D. PARLEMENT

Zie *Trb.* 1983, 68.

E. BEKRACHTIGING

Zie *Trb.* 1977, 141 en *Trb.* 1983, 68.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel IX, tweede lid, van het Verdrag een akte van bekrachtiging bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Roemenië	6 mei 1983
de Bondsrepubliek Duitsland ¹⁾	24 mei 1983
Australië	7 september 1984
Brazilië	12 oktober 1984
Benin	30 juni 1986

¹⁾ Onder de volgende verklaring:

“With effect from the day on which the Convention enters into force for the Federal Republic of Germany it shall also apply to Berlin (West) subject to the rights and responsibilities of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America including those relating to disarmament and demilitarization.” (VN-vertaling)

De Regering van *de Unie van de Socialistische Sovjet Republieken* heeft op 5 december 1983 tegen deze verklaring het volgende bezwaar gemaakt:

“The declaration by the Government of the Federal Republic of Germany that the application of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification techniques extends to Berlin (West) is illegal. The aforesaid Convention, in all of its substance, directly affects matters of security and status and consequently is among those international agreements and arrangements whose application the Federal Republic of Germany, in accordance with the Quadripartite Agreement of 3 September 1971, has no right to extend to Berlin (West).

The stipulation contained in the declaration of the Government of the Federal Republic of Germany to the effect that the Convention ‘shall also apply to Berlin (West), subject to the rights and responsibilities of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, including those relating to disarmament and demilitarization’ is pointless, since all the main provisions of the Convention relate to questions of disarmament and demilitarization. This stipulation is intended merely to mask the illegality of the declaration made by the Government of the Federal Republic of Germany, which is nothing but a flagrant violation of the Quadripartite Agreement and cannot, of course, have any legal force.

As is known, the relevant Allied provisions relating to demilitarization, which were confirmed upon the signature of the Quadripartite Agreement and the responsibility for whose practical observance lies with the authorities of France, United Kingdom and the United States, still remain in force in Berlin (West). This, of course, inevitably includes questions relating to the prohibition of the military use of environmental modification techniques.” (VN-vertaling)

De Regering van *de Duitse Democratische Republiek* heeft op 23 januari 1984 tegen de bovengenoemde verklaring het volgende bezwaar gemaakt:

“The statement by the Government of the Federal Republic of Germany to the effect that the Convention on the Prohibition of Military or Any Other Hostile Uses of Environmental Modification Techniques of 18 May 1977 is to be extended to Berlin (West) runs counter to the Quadripartite Agreement of 3 September 1971, which stipulates that the Federal Republic of Germany may not extend to Berlin (West) agreements concerning matters of the latter’s security concerned with such matters. Consequently, the statement of the Federal Republic of Germany that the application of the Convention to Berlin (West) is subject to the rights and responsibilities of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America does not in any way alter the fact that the statement applying the Convention to Berlin (West) is illegal. The statement of the Government of the Federal Republic of Germany cannot, therefore, have any legal effect.” (VN-vertaling)

De Regeringen van *Frankrijk, het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland en de Verenigde Staten van Amerika* hebben op 2 juli 1984 naar aanleiding van de bezwaren van de Unie van de Socialistische Sovjet Republieken en de Duitse Democratische Republiek de volgende mededeling gedaan:

“In a communication to the Government of the Union of Soviet Socialist Republics, which is an integral part (Annex IVA) of the Quadripartite Agreement

of 3 September 1971, the Governments of France, the United Kingdom and the United States, without prejudice to the maintenance of their rights and responsibilities relating to the representation abroad of the interests of the western sectors of Berlin, confirmed that, provided that matters of security and status are not affected and provided that the extension is specified in each case, international agreements and arrangements entered into by the Federal Republic of Germany may be extended to the western sectors of Berlin in accordance with established procedures. For its part, the Government of the Union of Soviet Socialist Republics, in a communication to the Governments of the three powers which is similarly an integral part (Annex IVB) of the Quadripartite Agreement, affirmed that it would raise no objections to such extension.

The established procedures referred to above, which were endorsed in the Quadripartite Agreement, are designed *inter alia* to afford the authorities of the three powers the opportunity to ensure that international agreements and arrangements entered into by the Federal Republic of Germany which are to be extended to the western sectors of Berlin are extended in such a way that matters of security and status are not affected.

When authorizing the extension of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques to the Western Sectors of Berlin, the authorities of the three powers took such steps as were necessary to ensure that matters of security and status were not affected. Accordingly, the Berlin declaration made by the Federal Republic of Germany in accordance with established procedures is valid and the Convention applies to the western sectors of Berlin, subject to Allied Rights and Responsibilities, including those in the Area of Disarmament and Demilitarization.

The three Governments wish further to recall that Quadripartite Legislation on Demilitarization applies to the whole of Greater Berlin.

With reference to the communication received on 23 January 1984 from the Government of the German Democratic Republic, the three Governments wish to point out that States which are not parties to the Quadripartite Agreement of 3 September 1971 are not competent to comment authoritatively on its provisions. They do not consider it necessary, and do not intend, to respond to further communications on this matter from States which are not parties to the Quadripartite Agreement. This should not be taken to imply any change in the position of the three Governments in this matter."

De Regering van de Bondsrepubliek Duitsland heeft op 5 juni 1985 de volgende mededeling gedaan:

"With regard to the communication [from the Government of the Union of Soviet Socialist Republics] [the Federal Republic of Germany,] states the following:

By their note of 2 July 1984, the Governments of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America answered the assertions made in the communication referred to above. The Government of the Federal Republic of Germany wishes to confirm the position as set out by the three Powers in the above-mentioned note."

De Regering van de Unie van de Socialistische Sovjet Republieken heeft op 2 december 1985 de volgende mededeling gedaan:

"[The Government of the Union of Soviet Socialist Republics] ... has the honour to confirm the Soviet side's view as set forth in note No. 845/n from the Permanent Mission of the USSR dated 30 November 1983 that the declaration made by the Federal Republic of Germany concerning the extension of the application of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques of 10 December 1976 to Berlin (West)

is a gross violation of the Quadripartite Agreement of 3 September 1971 and therefore cannot have any legal effect.

At the same time, the Soviet side would like to draw attention to the fact that the Powers party to the Quadripartite Agreement of 3 September 1971 have formulated decisions in respect of Berlin (West) which have universal effect under international law. The extension of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques to Berlin (West) by the Federal Republic of Germany naturally affects the interests of the other parties to it, which have the right to express their opinion on this matter. That right cannot be disputed by anyone.

In this connection, the Soviet side rejects as unfounded the communication from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America with respect to the declaration of the German Democratic Republic. The view set forth in that declaration by the Government of the German Democratic Republic as a party to the above-mentioned Convention is entirely in conformity with the Quadripartite Agreement of 3 September 1971.

As to the assertions about "Greater Berlin" in the same communication from the three Powers, they are pointless in that there has been no "Greater Berlin" for a long time. There is Berlin, capital of the German Democratic Republic, which is an inseparable component of the Republic and has the same status as any other territory of the German Democratic Republic, and there is Berlin (West) – a city with a special status where the occupation régime still remains. It is from these *de jure* and *de facto* realities that the Quadripartite Agreement of 3 September 1971 stems." (VN-vertaling)

Naar aanleiding hiervan hebben de Regeringen van *Frankrijk, het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland en de Verenigde Staten van Amerika* op 6 oktober 1986 het volgende medegedeeld:

"The Governments of the three powers reaffirm the statement in the note from the Permanent Representative of France of 28 June 1984 that the declaration made by the Federal Republic of Germany concerning the extension of the application of the Convention on the prohibition of military or any other hostile use of environmental modification techniques of 10 December 1976 to the western sectors of Berlin, subject to allied rights and responsibilities, including those in the area of disarmament and demilitarization.

The Governments of France, the United Kingdom and the United States further reaffirm the statement in the same note of 28 June 1984 that States which are not parties to the quadripartite agreement are not competent to comment authoritatively on its provisions.

The quadripartite agreement of 3 September 1971 is an international agreement concluded between the four contracting parties and not open to participation by any other State. In concluding this agreement, the four powers acted on the basis of their quadripartite rights and responsibilities, and the corresponding wartime and post-war agreements and decisions of the four powers, which are not affected. The quadripartite agreement is a part of conventional and not customary international law.

The Governments of France, the United Kingdom and the United States cannot accept the assertions by the Permanent Mission of the Union of Soviet Socialist Republics that greater Berlin no longer exists and that Berlin is the capital of the German Democratic Republic.

The position of the three governments on the continuing quadripartite status of greater Berlin is well known and was set out for example in a letter to the Secretary-General of the United Nations of 14 April 1975 (A/10078 and Corr.1)."

F. TOETREDING

Zie *Trb.* 1983, 68.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel IX, tweede lid, van het Verdrag een akte van toetreding bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Griekenland	23 augustus 1983
Zweden	27 april 1984
Nieuw-Zeeland ¹⁾	7 september 1984
de Democratische Volksrepubliek Korea.	8 november 1984
Afghanistan	22 oktober 1985
Pakistan	27 februari 1986
Korea ²⁾	2 december 1986
Argentinië ³⁾	20 maart 1987
Guatemala ⁴⁾	21 maart 1988
Zwitserland ⁵⁾	5 augustus 1988
Oostenrijk ⁶⁾	17 januari 1990
Algerije	19 december 1991
Mauritius	9 december 1992
Niger.	17 februari 1993
Uruguay	16 september 1993
Oezbekistan	26 mei 1993
Chili	26 april 1994

Verklaring van voortgezette gebondenheid

De volgende Staten hebben de Secretaris-Generaal van de Verenigde Naties medegedeeld zich gebonden te achten aan het Verdrag:

Antigua en Barbuda.	25 oktober 1988
Dominica	9 november 1992
de Tsjechische Republiek.	22 februari 1993
Saint Lucia	27 mei 1993
Slowakije	28 mei 1993

¹⁾ Onder de volgende verklaring:

“The Government of New Zealand hereby declares its interpretation that nothing in the Convention detracts from or limits the obligations of States to refrain from military or any other hostile use of environmental modification techniques which are contrary to international law.”

²⁾ Onder de volgende verklaring:

“It is the understanding of the Government of the Republic of Korea that any technique for deliberately changing of natural state of rivers falls within the meaning of the term ‘environmental modification techniques’ as defined in Article II of the Convention.

It is further understood that military or any other hostile use of such techniques, which could cause flooding, inundation, reduction in the water-level, drying up,

destruction of hydrotechnical installations or other harmfull consequences, comes within the scope of the Convention, provided it meets the criteria set out in Article I thereof.”

³⁾ Onder de volgende interpretatieve verklaring:

“The Argentine Republic interprets the terms ‘widespread, long-lasting or severe effects’ in article I, paragraph 1, of the Convention in accordance with the definitions agreed upon in the understanding on that article. It likewise interprets articles II, III and VIII in accordance with the relevant understandings.” (VN-vertaling)

⁴⁾ Onder het volgende voorbehoud:

“Guatemala accepts the text of article III, on condition that the use of environmental modification techniques for peaceful purposes does not adversely affect its territory or the use of its natural resources.” (VN-vertaling)

⁵⁾ Onder het volgende voorbehoud:

«En raison des obligations qui lui incombent en vertu de son statut de neutralité perpétuelle, la Suisse se doit de faire une réserve générale précisant que sa coopération dans le cadre de la présente Convention ne saurait aller au-delà des limites imparties par ce statut. Cette réserve se rapporte en particulier à l'article V, paragraphe 5, de la Convention, ainsi qu'à toute clause analogue qui pourrait remplacer ou compléter cette disposition dans la Convention (ou dans un autre arrangement).»

⁶⁾ Onder het volgende voorbehoud:

“Considering the obligations resulting from its status as a permanently neutral state, the Republic of Austria declares a reservation to the effect that its co-operation within the framework of this Convention cannot exceed the limits determined by the status of permanent neutrality and membership with the United Nations.”

G. INWERKINGTREDING

Zie *Trb.* 1983, 68.

H. TOEPASSELIJKVERKLARING

De Regering van Nieuw-Zeeland heeft op 7 september 1984 het Verdrag van toepassing verklaard op de Cook-eilanden en het eiland Niue.

J. GEGEVENS

Zie *Trb.* 1977, 141 en *Trb.* 1983, 68.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Handvest der Verenigde Naties zie ook, laatstelijk, *Trb.* 1994, 277.

Uitgegeven de *twintigste februari 1996*.