

0 (1997) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1997 Nr. 326

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en het Milieu-programma van de Verenigde Naties betreffende de zetel van het coördinatiekantoor van het Wereldomvattend Programma van actie tot bescherming van het mariene milieu tegen activiteiten die op het land plaatsvinden, met Bijlage;
's-Gravenhage, 24 november 1997*

B. TEKST

Agreement between the Kingdom of the Netherlands and the United Nations Environment Programme concerning the coordination office of the global programme of action for the protection of the marine environment from land-based activities

The Kingdom of the Netherlands,
and

the United Nations Environment Programme;

Whereas an intergovernmental conference convened in Washington D.C. from 23 October to 3 November 1995 adopted the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and endorsed the Washington Declaration on Protection of the Marine Environment from Land-based Activities;

Noting the undertaking of the Government of the Kingdom of the Netherlands to ensure the availability of all the necessary facilities and conditions to enable the Coordination Office to perform its functions, including its scheduled programme of work and related activities;

Having regard to the institutional arrangements for implementation of the Global Programme of Action, for which the United Nations Environment Programme is the Secretariat, regarding the legal status, privileges and immunities of the Coordination Office of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, its Coordinator and its Officials;

Noting the General Convention on the Privileges and Immunities of the United Nations adopted on 13 February 1946 by the United Nations General Assembly, to which the Kingdom of the Netherlands is a party, applies to United Nations officials servicing the Coordination Office, 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 Coordination Office of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities in the territory of the Kingdom of the Netherlands at The Hague;

Have agreed as follows:

Article I

Definitions

In this Agreement:

- a) "GPA" means the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, as adopted by Governments at the Intergovernmental Conference in Washington D.C. on 3 November 1995;
- b) "UNEP" means the institutional and financial arrangements for the United Nations Environment Programme established by the General Assembly of the United Nations in resolution 2997 (XXVII) of 15 December 1972, and such other institutional and financial arrangements as may from time to time be made for the United Nations Environment Programme;
- c) "Coordination Office" means the technical coordination office of the GPA;
- d) "the Coordinator" means the official of the Coordination Office who is the Head of the Coordination Office;
- e) "the Government" means the Government of the Kingdom of the Netherlands;
- f) "Parties" means the Kingdom of the Netherlands and UNEP;
- g) "Officials" means persons appointed or recruited by the United Nations for employment with the Coordination Office for the purpose of carrying out its official functions, including the Coordinator; it does not include persons in the domestic service of the Coordination Office or persons recruited locally and remunerated on an hourly basis;
- h) "Premises" means the premises of the Coordination Office and any buildings, parts of buildings or facilities used by the Coordination Office on a permanent or temporary basis, to carry out its official functions;

- i) "Experts" means persons, other than those referred to in subparagraph g) of this article, designated by UNEP or the Coordination Office to perform official missions for the Coordination Office;
- j) "Convention" means the Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

Article 2

Application of the Convention

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

Article 3

Use and Occupation of Premises

1. The Government of the Kingdom of the Netherlands grants to UNEP, and UNEP accepts from the Government, the use and occupation of Premises of the Coordination Office, as described in the Annex to this Agreement.

2. The Coordination Office may establish and operate research, documentation and other technical facilities. These facilities shall be subject to appropriate safeguards which, in the case of facilities which might create hazards to health or safety or interfere with property, shall be agreed upon with the appropriate authorities of the Government.

Article 4

Immunity from Legal Process

Within the scope of its official activities, the Coordination Office shall enjoy immunity from any form of legal process, except in the case of civil action by a third party for damages arising out of an accident caused by a vehicle belonging to or operated on behalf of the Coordination Office.

Article 5

Inviolability of the Premises

1. Any person authorized to enter any place under any legal provision shall not exercise that authority in respect of the Premises of the Coordination Office unless permission to do so has been given by or on behalf of the Executive Director of UNEP or the Coordinator acting on his behalf. Such permission may, however, be presumed in the event of

fire or other emergencies requiring prompt protective action. Any person who has entered the Premises with the presumed permission of the Executive Director of UNEP or the Coordinator acting on his behalf shall, if so requested by the Executive Director of UNEP or the Coordinator acting on his behalf, leave the premises immediately.

2. In other cases, the Executive Director of UNEP or the Coordinator acting on his behalf, shall give serious consideration to a request for permission from the Netherlands authorities to enter the Premises, without prejudice to the interests of the Coordination Office.

Article 6

Inviolability of the Archives

The inviolability of the archives shall be understood to apply to all records, correspondence, manuscripts, photographs, films, recordings, documents, computer data and computer files belonging to or held by the Coordination Office.

Article 7

Exemption from Taxes and Duties

1. In addition to section 7 and 8 of the Convention the Coordination Office shall, within the scope of its official activities, be exempt from the following taxes:

- a) import taxes and duties (belastingen bij invoer);
- b) motor vehicle tax (motorrijtuigenbelasting);
- c) tax on passenger motor vehicles and motorcycles (BPM);
- d) value added tax (omzetbelasting) paid on goods and services involving considerable expenditure or supplied on a recurring basis;
- e) excise duties (accijnzen) included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels;
- f) real property transfer tax (overdrachtsbelasting);
- g) insurance tax (assurantiebelasting).

2. The exemptions provided for in paragraph 1 d), e), f) and g) of this article may be granted by way of a refund. The exemptions provided for in this article shall apply in accordance with the regulations in force in the Kingdom of the Netherlands.

3. Goods acquired or imported under the terms set out in this article shall not be sold, given away, or otherwise disposed of in the Netherlands, except in accordance with conditions agreed upon with the Government.

Article 8

Privileges and Immunities of Officials

1. In addition to the provisions of section 18 of the Convention the Officials shall also:

a) enjoy immunity referred to in paragraph a) of that section notwithstanding that the Officials concerned may have ceased to be Officials of the United Nations;

b) enjoy immunity from inspection and seizure of their personal and/or official baggage; except in cases of *flagrante delicto*. In such cases, the appropriate Government authorities shall immediately inform the Coordinator. Inspections shall, in the case of personal baggage, be conducted only in the presence of the official or his authorized representative, and in the case of official baggage, in the presence of an authorized representative of the Coordination Office;

c) in accordance with the regulations in force, if they are non-residents, have relief from duties and taxes (except payments for services) in respect of import of their furniture and personal effects, including motorvehicles, 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 organisations situated within the territory of the Kingdom of the Netherlands.

2. The Coordinator shall enjoy with respect to himself and to dependant members of his family forming part of his household the privileges and immunities granted to heads of diplomatic missions accredited to the Government, in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

3. A Deputy Coordinator or other senior official, when acting on behalf of the Coordinator during his absence from duty, shall be accorded the same immunities as are accorded to the Coordinator.

4. Officials of rank P.5 and above shall enjoy the privileges and immunities granted to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

5. Immunity shall not apply in the case of a motor-traffic offence committed by an official, nor in the case of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging or driven by an official.

Article 9

Privileges and Immunities of Experts

1. Article VI of the Convention shall apply to experts.

2. With respect to section 22 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.

Article 10

Notification

With respect to section 17 of the Convention the following shall also apply:

1. UNEP shall promptly notify the Government of:
 - a) the appointment of Officials and Experts, their arrival and their final departure, or the termination of their functions with UNEP or the Coordination Office;
 - b) the arrival and final departure of dependant members of the families forming part of the households of the persons referred to in sub-paragraph a) of this article and, where appropriate, the fact that a person has ceased to form part of the household;
 - c) the arrival and final departure of domestic employees of persons referred to in sub-paragraph a) of this article and, where appropriate, the fact that they are leaving the employ of such persons.
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 function with the Coordination Office, or has ceased to be a dependant member of the family forming part of the household 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.
3. The Government shall issue to the Officials, to the dependant members of the families forming part of the households of the Officials and to the domestic employees of the Officials an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to the Host State authorities.

Article 11

Social Security

1. In the event that the Coordination Office shall have established its own social security system or shall adhere to a social security system offering comparable coverage to the coverage under the legislation of the Netherlands, the Coordination Office and its Officials to whom the aforementioned scheme applies, shall be exempt from social security provisions in the Netherlands.

2. The provisions of paragraph 1 of this article shall apply, *mutatis mutandis*, to the dependant members of the families forming part of the households of the Officials, unless they are employed otherwise than by the Coordination Office or self-employed in the Netherlands or unless they receive social security benefits from the Kingdom of Netherlands.

Article 12

Employment of Family Members of Officials

1. Dependant members of the families forming part of the households of Officials of the Coordination Office shall be entitled to be granted the appropriate permits to allow them employment within the Kingdom of the Netherlands for the duration of the employment of the Officials.

2. The dependant members of the family forming part of the household of the Coordinator shall not, when they practice 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.

Article 13

Services, Facilities, Contributions and Support to be provided by the Government of the Kingdom of the Netherlands

The services and facilities to be provided by the Government are contained in the Annex to this Agreement. The Executive Director of UNEP shall establish a trust fund for the receipt and distribution of contributions in cash by the Government of the Kingdom of the Netherlands in support of the Coordination Office.

Article 14

Settlement of Disputes

1. Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled through negotiation or any other means agreed by the Parties.

2. If the dispute cannot be settled through the means mentioned in paragraph 1 above it may be submitted, at the request of any Party, to final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration involving International Organisations and States of July 1996, as in effect on the date of submission of the dispute to the Court. The number of arbitrators shall be three.

Article 15

Amendments to Agreement

1. At the request of either Party, this Agreement as well as the Annex may be amended by mutual consent at any time.
2. Any such amendment may be effected by an exchange of Notes.

Article 16

Duration of Agreement and Conditions of Termination

1. The Agreement will be in effect for an initial period of five years after being signed by the Parties. All services and facilities being offered by the Government are immediately available for use by UNEP for the purposes agreed upon in this Agreement for the implementation of the GPA.
2. After an evaluation of the performance of the Coordination Office by the Parties, extension of the Agreement after the initial period of five years will be negotiable between the Parties.
3. This Agreement shall be terminated in the event that the Coordination Office is transferred from the territory of the Kingdom of the Netherlands or in the event that the Coordination Office ceases to exist. The provisions of this Agreement relevant to the orderly termination of the Coordination Office's operations in the Kingdom of the Netherlands and to the disposal of its property shall remain applicable as long as necessary, but no longer than six months after the Government has been notified by UNEP that the Coordination Office will terminate its operation in the Kingdom of the Netherlands.
4. Upon the termination of this Agreement, property, furniture, equipment and other items that are made available by either UNEP or the Government will remain the property of UNEP or of the Kingdom of the Netherlands, as the case may be.

Article 17

Entry into Force

1. This Agreement shall enter into force on the first day of the second month after the date of signing the Agreement.
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 to that effect, have signed this Agreement.

DONE at The Hague on 24 November 1997, in duplicate in the English language.

For the Kingdom of the Netherlands

(sd.) J. J. JONKER ROELANTS

For the United Nations Environment Programme

(sd.) E. DOWDESWELL

Annex

Services and facilities to be provided by the Government of the Kingdom of the Netherlands in support of the GPA Coordination Office

The services and facilities to be provided by the Government are identified as follows:

1. For the Coordination Office, 300 square meters of space, to be subdivided into 6–8 offices, in a recently renovated (1994) office building shared by the National Institute for Coastal and Marine Management (RIKZ) and the Coastal Zone Management Centre, located in the centre of The Hague, with the option to provide for possible future growth of the Coordination Office;
2. Use of all the facilities available within the complex, including admission security; assistance from state-of-the-art visual design division; mail and archive facilities; telephone reception facilities; (technical) office maintenance; computer facilities, with access to a computer network and Internet, including support; electricity; heating; water; free parking places; restaurant services; several meeting facilities; lecture/conference hall (theatre set-up) with possible translation facilities; janitorial services; and travel booking services;
3. The Government will prepare and equip the office space to be occupied by the Coordination Office with ready-to-use office space; office equipment, including chairs, desks, telephones, computers, cupboards and archive; telephone switchboard; kitchenette, including coffee machine; and secretariat equipment;
4. The Government will provide operational costs of the Coordination Office (up to a maximum of US\$ 60,000 per year or its equivalent in Dfl) for telephone and fax costs; maintenance of computers/computer network; photocopy machine; and postage costs;

5. Access to the infrastructure of expertise and training in the field of water quality management, including but not limited to the following institutions of the national government:

a) National Institute for Coastal and Marine Management (RIKZ) and National Institute for Inland Water Management and Waste Water Treatment (RIZA), of the Ministry of Transport, Public Works and Water Management;

b) National Institute for Public Health and Environmental Protection (RIVM) of the Ministry of Housing, Spatial Planning and Environment;

c) Netherlands Institute for Sea Research (NIOZ) of the Ministry of Education, Culture and Science;

d) National Institute for Fisheries Research (RIVO) of the Ministry of Agriculture, Nature Management and Fisheries;

e) Coastal Zone Management Centre (CZMC), a cooperative of the above Ministries, the Ministry of Economic Affairs and the Directorate-General for Development Cooperation.

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), juncto artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen, behoeft het onderhavige Verdrag niet de goedkeuring van de Staten-Generaal.

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 in het in artikel 1 bedoelde Verdrag worden 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

De bepalingen van het Verdrag zullen ingevolge artikel 17, eerste lid, op 1 januari 1998 in werking treden.

Wat het Koninkrijk der Nederlanden betreft, zal het Verdrag ingevolge artikel 17, tweede lid, alleen voor Nederland gelden.

J. GEGEVENS

Het Permanente Hof van Arbitrage, welk Hof wordt genoemd in artikel 14, tweede lid, van het onderhavige Verdrag, is ingesteld bij artikel 20 van het op 29 juli 1899 te 's-Gravenhage tot stand gekomen Verdrag voor de vreedzame beslechting van internationale geschillen. Laatstgenoemd Verdrag is herzien bij het op 18 oktober 1907 te 's-Gravenhage tot stand gekomen Verdrag voor de vreedzame beslechting van internationale geschillen. Tekst en vertaling van dat Verdrag zijn bij Koninklijk besluit van 22 februari 1910 bekendgemaakt in *Stb.* 73; zie ook, laatstelijk, *Trb.* 1981, 96.

De Organisatie van de Verenigde Naties is opgericht bij het op 26 juni 1945 te San Francisco tot stand gekomen Handvest van de Verenigde Naties, van welk Handvest de Engelse en de Franse tekst, zoals gewijzigd, zijn geplaatst in *Trb.* 1979, 37. De herziene vertaling is geplaatst in *Trb.* 1987, 113; zie ook, laatstelijk, *Trb.* 1994, 277.

Van het op 13 februari 1946 te Londen tot stand gekomen Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties, naar welk Verdrag onder meer in de preambule tot het onderhavige Verdrag wordt verwezen, zijn tekst en vertaling bij Koninklijk besluit van 31 mei 1948 bekendgemaakt in *Stb.* I 224; zie ook, laatstelijk, *Trb.* 1994, 210.

Van het op 18 april 1961 tot stand gekomen Verdrag van Wenen inzake diplomatiek verkeer, naar welk Verdrag in artikel 8 van het onderhavige Verdrag wordt verwezen, zijn de Engelse en de Franse tekst geplaatst in *Trb.* 1962, 101 en de vertaling in *Trb.* 1962, 159; zie ook, laatstelijk, *Trb.* 1994, 212.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het onderhavige Verdrag zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *eenendertigste* december 1997.

De Minister van Buitenlandse Zaken a.i.,

W. KOK