

13 (1998) Nr. 1

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 1998 Nr. 141

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A. TITEL

*Briefwisseling tussen het Koninkrijk der Nederlanden en het  
Koninkrijk Denemarken inzake een verdrag houdende bepalingen  
inzake de status van de brigadestaf van de „United Nations Stand-by  
Forces High Readiness Brigade” (Shirbrig) in Denemarken,  
met Bijlage;  
Kopenhagen, 5 maart/ 11 mei 1998*

B. TEKST

Nr. I

Copenhagen, 5 March 1998  
Annex (Provisions on the Status of  
the Planning Element in Denmark)

Sir,

I have the honour to refer to the Memorandum of Understanding concerning the Operation, Funding, Administration and Status of the Planning Element of the Multinational United Nations Stand-by Forces High Readiness Brigade, initially signed by Denmark on 14th of March 1997, according to which the status of the Planning Element and its personnel from nations other than the Host Nation will be dealt with in separate arrangements (section 6.1).

The Government of Denmark has offered to provide facilities in Denmark for the Planning Element.

Following discussions of the International Implementation Group of the Multinational United Nations Stand-by Forces High Readiness Brigade I have the honour to propose that the status, immunities and procedures applicable to the Planning Element and its personnel will be as set out in this Note and the enclosed annex to this Note (Provisions on the Status of the Planning Element in Denmark) which represents the conclusions of the Group. It is the aim for the Planning Element to commence its functions as of 3rd of June 1997.

If this proposal, which has been approved by the said Implementation Group, is acceptable to the Government of the Netherlands, this Note and Your Excellency's reply to that effect will constitute an agreement between the Kingdom of the Netherlands and the Kingdom of Denmark that will enter into force on the first day of the second month after the Kingdom of the Netherlands and the Kingdom of Denmark have informed each other that the constitutional procedures therefor have been complied with.

It is the understanding that the agreement represents an interim arrangement which, subject to negotiations between the participants in the Multinational United Nations Stand-by Forces High Readiness Brigade and subject to constitutional requirements, is intended to be replaced by a multilateral and reciprocal agreement on the status of forces, including the status of the officials of the Planning Element of the Multinational United Nations Stand-by Forces High Readiness Brigade. Such an agreement could be inspired by existing international instruments defining the status of forces, e.g. the Agreement between the Parties to the North Atlantic Treaty regarding the status of their forces and the Agreement among the States Parties to the North Atlantic Treaty and the other States participating in the Partnership for Peace regarding the Status of their Forces and the Additional Protocol to that Agreement.

Consultations with respect to amendments to the said Provisions will be entered into at the request of either Government. Such amendments will be made by mutual consent and in writing.

Either Government may denounce this agreement by means of a notification in writing. The denunciation will take effect 1 year after the receipt of the denunciation. The Government of Denmark will inform the Steering Committee of the denunciation.

Any dispute between the two Governments concerning the interpretation or application of the said Provisions which is not settled by negotiation, will be referred for final decision to a tribunal of three arbitrators, one to be chosen by each Government and one to be chosen by the Steering Committee for the Multinational United Nations Stand-by Forces High Readiness Brigade. The tribunal will appoint one of its members as chairman.

This agreement shall be provisionally applied from the day after Your Excellency's reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(sd.) NIELS HELVEG PETERSEN

Niels Helveg Petersen

*His Excellency  
Mr. Johannes Hubertus Wilhelmus Fietelaars  
Ambassador Extraordinary and  
Plenipotentiary of The Netherlands  
Copenhagen*

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#### **Annex**

### **Provisions on the Status of the Planning Element in Denmark**

#### **Article 1**

##### *Basis for the establishment and operation of the Planning Element*

1. The Planning Element is established in accordance with the provisions set out in the Memorandum of Understanding concerning the Operation, Funding, Administration and Status of the Planning Element of the Multinational United Nations Stand-by Forces High Readiness Brigade initially signed by Denmark on 14th of March 1997, and is under the supervision of the Steering Committee for the Multinational United Nations Stand-by Forces High Readiness Brigade, as described in the Memorandum of Understanding concerning the Steering Committee initially signed by Denmark on 9th of March 1997.

2. The status of the Planning Element, its officials and the Commander of the Multinational United Nations Stand-by Forces High Readiness Brigade while in the territory of Denmark is laid down in the following Provisions.

#### **Article 2**

##### *Definitions*

In the following,

a) the expression “SHIRBRIG” means the Multinational United Nations Stand-by Forces High Readiness Brigade, which is a pre-established

(non-standing), multinational brigade at high readiness, composed of contributions to the United Nations Stand-by Arrangements System, which in accordance with national decisions can be offered to carry out peacekeeping missions mandated by the United Nations under Chapter VI of the Charter of the United Nations, including humanitarian tasks;

b) the expression “the Planning Element” means the multinational element, which is the permanent part of the SHIRBRIG staff, established to support the Brigade by performing pre-deployment functions;

c) the expression “Steering Committee for the Multinational United Nations Stand-by Forces High Readiness Brigade” means the committee, which is the executive body of the SHIRBRIG, including the Planning Element, established to provide oversight and policy guidance. (Point of contact will be the incumbent chairmanship of the Steering Committee for the multinational United Nations Stand-by Forces High Readiness Brigade);

d) the expression “Chief of Staff” means the head of the Planning Element;

e) the expression “Officials of the Planning Element” means official personnel of the Planning Element;

f) the expression “Commander of the SHIRBRIG” means the commander of Multinational United Nations Stand-by Forces High Readiness Brigade who, for the purpose of these Provisions, is deemed to be an official of the Planning Element;

g) the expression “the Government” means the Government of Denmark.

### Article 3

#### *Legal personality and capacity*

1. The Planning Element will have the capacity:

- a) To enter into contracts;
- b) To acquire and dispose of movable property;
- c) To file, consider and settle or adjudicate claims in accordance with the Memorandum of Understanding concerning the Operation, Funding, Administration and Status of the Planning Element of the Multinational United Nations Standby Forces High Readiness Brigade;
- d) To institute legal proceedings.

2. The Planning Element and the Danish Ministry of Defence may agree that the Danish authorities will act on behalf of the Planning Element in any legal proceedings to which the Planning Element is a party before Danish courts. The costs connected to carrying out contracts or settling legal actions will be borne by the Planning Element.

## Article 4

*Representatives in Denmark*

1. The Commander of SHIRBRIG will be situated at the Planning Element in order to perform his tasks as laid down in the Memorandum of Understanding concerning the Operation, Funding, Administration and Status of the Planning Element.
2. The Planning Element will be represented in Denmark by the Chief of Staff.

## Article 5

*Status of the premises*

1. Except as otherwise provided in these Provisions, the laws of Denmark will apply within the premises of the Planning Element.
2. Except as otherwise provided in these Provisions, the courts or other appropriate organs of Denmark will have jurisdiction, as provided in applicable laws, over acts, transactions or omissions taking place on the premises of the Planning Element.
3. The archives and other official documents of the Planning Element, wherever located, will be inviolable, unless the Chief of Staff has waived this immunity.
4. Juridical actions, including service of legal process and the seizure of property will not take place within the premises of the Planning Element, except with the consent of, and under the conditions approved by, the Steering Committee of the Multinational United Nations Stand-by Forces High Readiness Brigade.
5. Danish regulations on the prevention and control of infectious diseases of humans, animals and plants and on the prevention and control of plant pests apply to the Planning Element, and the Planning Element and the Danish authorities will keep each other informed of the outbreak, or suspected outbreak, development and elimination of infectious diseases, and of the measures taken.
6. a) Official motor vehicles and trailers, belonging to the Planning Element, will bear a clearly recognisable sign issued by the Danish authorities indicating that they belong to a military installation. Deviations from regulations governing conduct in road traffic are permitted to the Planning Element on such conditions and to such extent as are permitted to the Danish Armed Forces.  
b) With regard to its official motor vehicles and trailers, the Planning Element will not be subject to Danish regulations concerning compulsory insurance of holders of motor vehicles.

7. Without prejudice to these Provisions, the Planning Element will take all feasible measures to prevent its premises from being used as a refuge by persons who are avoiding arrest under any law of Denmark, who are requested by the Government for extradition to another country, or who are endeavouring to avoid service of legal process.

8. The appropriate Danish authorities will exercise due diligence to ensure that the tranquillity of the premises of the Planning Element is not disturbed by any person or group of persons attempting unauthorized entry into or creating disturbances in the immediate vicinity of those premises. If so requested by the Chief of Staff the appropriate Danish authorities will provide necessary assistance for the preservation of law and order in the Planning Element and for the removal of persons from the premises.

9. The appropriate Danish authorities will make every possible effort to secure public services needed by the Planning Element. Public services will be supplied in accordance with the afore-mentioned Memorandum of Understanding concerning operation, funding and administration of the Planning Element.

#### Article 6

##### *Freedom of access*

1. Without prejudice to Article 9, the competent Danish authorities will not impede access to or from the Planning Element or the Commander of the SHIRBRIG by persons holding official post therein or by persons invited thereto in connection with the official work and activities of the Planning Element upon their arrival in or departure from Denmark.

2. The Government undertakes, for this purpose, to allow the entry into and residence in Denmark of the persons, listed hereunder during the performance of their duties for the Planning Element, without charging visa fees and without delay as well as under exemption from any requirement of exit visa formalities upon departure from Denmark:

a) Representatives of the Steering Committee of the Multinational United Nations Stand-by Forces High Readiness Brigade, as well as representatives of the SHIRBRIG and representatives of States participating in the SHIRBRIG, and representatives from intergovernmental and other organizations, with which the SHIRBRIG or the Planning Element have established official relations, invited or entitled to participate in conferences or meetings convened in Denmark by the SHIRBRIG or the Planning Element, including alternate representatives or observers, advisers, experts and assistants, as well as their spouses and dependent members of their families;

b) Officials assigned to work for the Planning Element and those who have official duties with the Planning Element as well as their spouses and dependent members of their families;

c) All persons invited to the Planning Element on official business.

3. Without prejudice to the special immunities which they may enjoy, persons referred to in paragraph 2 above may not be forced by Danish authorities to leave Danish territory unless they abuse their recognized privileges by exercising an activity incompatible with their status granted in these Provisions, and subject to the following provisions:

a) No action to force the persons referred to in paragraph 2 above to leave Danish territory may be taken except with the prior approval of the Danish Ministry of Foreign Affairs. Such approval will be given only after consultation with the diplomatic representatives of the State to whom the person belongs;

b) Persons enjoying privileges and immunities under these Provisions may not be requested to leave Danish territory except in accordance with the practices and procedures applicable to diplomats accredited to the Government;

c) It is understood that persons referred to in paragraph 2 above will not be exempt from the application of quarantine or other health regulations.

#### Article 7

##### *Communications facilities*

1. For all official postal, telephone, telegraph, telephoto, telefax and electronic communications, the Government will accord to the Planning Element a treatment equivalent to that accorded to the Danish Armed Forces.

2. The Government will secure the inviolability of the official correspondence of the Planning Element and will not apply any censorship to such correspondence. Such inviolability will extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound recordings dispatched to or by the Planning Element.

3. The Planning Element will have the right to use codes, cypher and to dispatch and receive its correspondence and other materials either through the Danish Postal Service or by courier or in sealed bags, which will have the same privileges and immunities as diplomatic couriers and bags. Non-official correspondence and packages sent by or addressed to the Planning Element or its officials through the Danish Postal Service will be duly stamped in the country of origin in accordance with the provisions of the Convention and the Rules of the Universal Postal Union.

4. a) The Planning Element may import, install and use on Danish territory such military radio stations and telecommunications facilities as may be required for the operational functions of the Planning Element. Military radio stations etc. will be used exclusively for official purposes.

b) The Planning Element will be subject to the same procedures and regulations concerning location, allocation and use of frequencies and

technical details of the equipment, including work, services and payments for the use of frequencies, as the Danish Armed Forces.

c) Requests for commercial communication systems and circuits within Danish territory and applications on the use of international communication systems and circuits will be coordinated with the appropriate Danish authorities and international authorities and agencies.

d) The Planning Element will take all measures necessary to avoid or eliminate interference with Danish radio or telecommunication services caused by the Planning Element communication activities or other electrical facilities. The Danish authorities will take all measures to avoid or eliminate interference with the radio or telecommunication activities of the Planning Element.

e) The facilities provided for in this Article may, to the extent necessary for efficient operation, be established and operated outside the Planning Element with the consent of the appropriate Danish authorities.

#### Article 8

##### *Property, funds and assets of the Planning Element*

1. a) The Planning Element will be exempted from customs duties on goods imported by the Planning Element itself. Imported goods will not be subject to general purchase tax upon importation. The Planning Element will be exempted from car taxes levied under the Motor Vehicles Weight Tax Act. When the Planning Element is making purchases for official use of moveable property on which value added tax has been charged or is chargeable, the appropriate Danish authorities will, whenever possible, make appropriate administrative arrangements for the reimbursement or remission of the amount of value added tax.

b) The Planning Element will be exempted from licence fees for radio and TV sets, procured for military purposes.

c) It is understood that items imported duty-free by the Planning Element for its operations will not be transferred to persons who are not entitled to enjoy this exemption until Danish duties and taxes have been paid. The time of transfer will govern the valuation for the purpose of customs clearance.

2. The Planning Element may hold currency of any kind and operate accounts in any currency. Bank accounts of the Planning Element will be exempted from national currency regulations, and from national emergency measures against bank accounts.

3. The property and assets of the Planning Element will be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, juridical or legislative actions, unless the Steering Committee of the Multinational United Nations Stand-by Forces High Readiness Brigade has waived this immunity.



## Article 9

*Privileges and immunities of officials of the Planning Element*

1. The officials of the Planning Element, with the exception of locally recruited staff and staff allocated by the Danish Armed Forces or related categories, will enjoy the following privileges and immunities. The privileges and immunities are granted as well for their spouses and dependents when referred to in the following provisions:

- a) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity;
- b) Inviolability of their personal papers and documents;
- c) Immunity from inspection and seizure of their personal and official baggage;
- d) Exemption for themselves and for their spouses and dependent members of the family from visa fees and immigration restrictions or aliens registration procedures;
- e) Exemption from Danish taxation on the salaries and all other remuneration paid to them by the Planning Element and by their home states. Denmark retains the right to tax income from other sources;
- f) In regard to foreign exchange, including holding accounts in foreign currencies, enjoyment of the same facilities as are accorded to diplomats accredited to the Government;
- g) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to diplomats accredited to the Government;
- h) If they have been previously residing outside Denmark, the right to import their furniture, personal effects and all household appliances, including one motor vehicle intended for personal use, free of duty when they come to reside in Denmark. This privilege will normally be valid for a period of one year only, from the date of arrival in Denmark;
- i) The officials of the Planning Element will have the right, once every three years, to import one motor vehicle free of customs and excise duties, including value added taxes, it being understood that permission to sell or dispose of the vehicle in the open market in Denmark will normally only be granted two years after its importation. It is further understood that customs and excise duties will become payable in the event of the sale or disposal of such motor vehicle within three years after its importation to a person who is not entitled to enjoy this exemption;
- j) Officials of the Planning Element and their dependents are required to have a Danish driver's license. Current foreign driver's license or permits, issued in roman type by the authorities of the home state of the officials will be accepted by the Danish authorities as valid without a driving test or fee;

k) Military medical support will be provided by the Danish Armed Forces Health Service to officials of the Planning Element, their spouses and their dependents as laid down in the Memorandum of Understanding concerning the Operation, Funding, Administration and Status of the Planning Element, Annex G. Officials of the Planning Element, their spouses and their dependents may receive other medical and dental care on the same conditions as the members of the diplomatic mission accredited to the Government;

2. The Danish Ministry of Defence will be authorized by these Provisions to furnish the officials of the Planning Element with an identity card bearing the photograph of the holder. This card may serve to identify the holder in relation to Danish authorities.

3. a) The officials of the Planning Element may wear uniform;

b) The officials of the Planning Element may possess and carry arms when authorized to do so by their orders. The authorities of the State to whom the official belongs will give sympathetic consideration to requests from the Danish authorities concerning this matter.

4. a) The Chief of Staff will communicate to the Parties the names of the officials of the Planning Element. The Chief of Staff will communicate to the Government a list of all the persons who fall within the scope of this Article. The list will be revised from time to time as may be necessary;

b) The privileges and immunities mentioned in this article are granted in the interest of the Planning Element and the SHIRBRIG, and not for the personal benefit of the officials themselves;

c) Immunity granted to any official employed by or allocated to the Planning Element will be waived whenever such immunity would impede the course of justice and can be waived without prejudice to the interest of the Planning Element. Immunity may be waived by the State to whom the official belongs.

#### Article 10

##### *Cooperation with Danish authorities and implementation of the Provisions*

1. The Commander of the SHIRBRIG and the Chief of Staff will cooperate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connection with the facilities, privileges and immunities mentioned in these Provisions.

2. a) The Planning Element may enter into the necessary practical arrangements with the appropriate Danish authorities in order to give effect to these Provisions, e.g. exemption from duties and taxes, duty-free privileges, the accounting and managing of tax-exempted supplies, and customs inspections;

b) Such arrangements will not be inconsistent with these Provisions. In the event of discrepancy these Provisions will prevail.

3. The Planning Element will obtain appropriate approval in advance from the Danish Ministry of Defence before conducting or directing manoeuvres or other Training exercises on Danish territory.

4. Upon request from the Planning Element the Danish Ministry of Defence will appoint military motor inspectors, military medical advisers and similar expertise to advise the Planning Element.

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Nr. II

Copenhagen, 11 May 1998

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of 5 March 1998, with annex, which reads as follows:

(Zoals in Nr. I)

I have the honour to inform Your Excellency, on behalf of the Government of the Kingdom of the Netherlands, that the Government of the Kingdom of the Netherlands accepts the above proposal of the Government of Denmark and to confirm that Your Excellency's Note and this reply shall be regarded as constituting an agreement between the Kingdom of the Netherlands and the Kingdom of Denmark on this matter which shall be provisionally applied from the day after the receipt of this reply and which shall enter into force on the first day of the second month after both States have informed each other that the constitutional procedures therefor have been complied with.

I would appreciate it if Your Excellency could confirm receipt of this reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Yours sincerely,

(sd.) P. J. HANSEN

Peter J. Hansen  
Chargé d'Affaires a.i.

*His Excellency Mr. Niels Helveg Petersen  
Minister for Foreign Affairs  
Asiatisk Plads 2  
1448 Copenhagen K*

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D. PARLEMENT

Het in de brieven vervatte verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het verdrag kan worden gebonden.

De voorlopige toepassing van het in de brieven vervatte verdrag is in overeenstemming met artikel 15, vierde lid, van de Rijkswet goedkeuring en bekendmaking verdragen medegedeeld aan de Eerste en de Tweede Kamer der Staten-Generaal bij brieven van 9 juni 1998.

G. INWERKINGTREDING

De bepalingen van het in de brieven vervatte verdrag zullen ingevolge het in de brieven bepaalde in werking treden op de eerste dag van de tweede maand nadat beide partijen elkaar in kennis hebben gesteld dat aan hun constitutionele vereisten voor inwerkingtreding is voldaan.

Ingevolge het in de op een na laatste alinea van brief Nr. II gestelde, wordt het verdrag vanaf 13 mei 1998 voorlopig toegepast.

J. GEGEVENS

Van het op 19 juni 1951 te Londen tot stand gekomen Verdrag tussen de Staten die Partij zijn bij het Noord-Atlantisch Verdrag nopens de rechtspositie van hun krijgsmachten, naar welk Verdrag in het onderhavige verdrag wordt verwezen, is de tekst geplaatst in *Trb.* 1951, 114 en de vertaling in *Trb.* 1953, 10; zie ook, laatstelijk, *Trb.* 1996, 326.

Bovengenoemd Verdrag is aangevuld door een op 6 oktober 1997 te Bergen (Duitsland) tot stand gekomen Overeenkomst, waarvan de tekst is geplaatst in *Trb.* 1998, 124.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse

Zaken bepaald dat het verdrag zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *twaalfde* juni 1998.

*De Minister van Buitenlandse Zaken,*

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