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TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1998 Nr. 239

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Republiek
Bulgarije inzake technische en financiële samenwerking;
's-Gravenhage, 30 september 1998*

B. TEKST

**Agreement on technical and financial cooperation between the
Government of the Kingdom of the Netherlands and the
Government of the Republic of Bulgaria**

The Government of the Kingdom of the Netherlands

and

the Government of the Republic of Bulgaria,

Reaffirming the friendly relations existing between the two States and their peoples;

Having in mind that respect for democratic principles, general principles of international law and human rights is the foundation of the relationship between the two countries;

Desirous to cooperate with the aim of helping to improve the social and economic conditions in the Republic of Bulgaria in order to further the development of a free market economy through Projects and Programmes and to create for that purpose, in addition to the efforts made by the Republic of Bulgaria, a legal and administrative framework for the employment of Personnel and the importation of Resources from the Kingdom of the Netherlands into the Republic of Bulgaria;

Have agreed as follows:

CHAPTER I

SUBJECT OF THE AGREEMENT

Article 1

Scope

1. This Agreement shall apply to Projects and Programmes in the field of technical and financial cooperation, agreed upon between the Government of the Republic of Bulgaria and the Government of the Kingdom of the Netherlands.

2. The Projects and Programmes referred to in paragraph 1 are agreed upon between the Contracting Parties and/or between the Contracting Parties and a third party or parties. In such a case, the parties involved shall agree upon the application of this Agreement.

Article 2

Definitions

For the purposes of this Agreement:

1. "Resources" means, inter alia:
 - a) financial resources;
 - b) goods, including machinery and equipment;
 - c) services;
 - d) tangible and intangible rights; procured by or on behalf of the Netherlands Party in the framework of Projects and Programmes.
2. "Personnel" means persons who are neither citizens nor permanent residents of the Republic of Bulgaria and who are:
 - a) consultants, experts, scientists and technical staff who on a contract basis with the Netherlands Party or with companies or organizations which are contracted to carry out activities within the framework of the Projects and Programmes referred to in Article 1; or
 - b) consultants, experts, scientists and technical staff who on a contract basis with the Bulgarian Party carry out activities as topping up experts for the implementation of Projects and Programmes referred to in Article 1.
3. "Dependants" means the family of Personnel, namely the spouse and children under the age of 18.

CHAPTER II

PROJECTS AND PROGRAMMES

Article 3

General

Representatives of the Netherlands Party shall be given the opportunity to acquaint themselves in situ with the development, implementation and evaluation of the Projects and Programmes referred to in Article 1.

Article 4

Resources

1. The Republic of Bulgaria shall with regard to Resources:
 - a) grant exemption from import and export duties, fees and taxes, including value added taxes;
 - b) grant exemption from guarantees on import and export duties, fees and taxes, including value added taxes, for goods which are temporarily admitted into the territory of the Republic of Bulgaria, including machinery and equipment;
 - c) ensure swift and safe reception, berthing, handling, clearing, forwarding as well as storage and onward transportation;
 - d) take all appropriate measures and institute any proceedings that may be necessary with regard to claims for total or partial losses of or damages to the Resources.

The Netherlands Party shall notify the Bulgarian Party in due time of the location of such Resources.

2. All Resources shall remain the property of the Kingdom of the Netherlands unless otherwise agreed. At the end of a Project or Programme the transfer or other destination of the property shall be governed by the provisions agreed upon for the Project or Programme concerned.

CHAPTER III

PERSONNEL

Article 5

Administrative procedures

The Netherlands Party shall inform the Bulgarian Party in writing as to the Personnel the Netherlands Party proposes to employ in the Project or Programme concerned.

The Bulgarian Party shall inform the Netherlands Party in writing within one month whether or not it accepts the proposed Personnel. Expiration of this period implies acceptance.

Article 6

Privileges

1. The Republic of Bulgaria shall:

a) exempt Personnel from taxes in respect of the remunerations, paid to them by the Netherlands Party or companies or organizations which execute a Project or Programme. However, this provision shall not apply if and as long as a convention for the avoidance of double taxation with respect to taxes on income is effective between the Government of the Kingdom of the Netherlands and the Government of the Republic of Bulgaria, which covers these remunerations;

b) make provision for admission under the regime of temporary import without guarantee of new or used household and personal effects, imported into the Republic of Bulgaria within six months of their arrival except in special circumstances when that period may be extended - provided such goods are re-exported from the Republic of Bulgaria at the time of departure or within such period as may be agreed upon by the Bulgarian Party; this re-exportation shall be exempted from duties and other fiscal charges;

c) exempt Personnel from paying import and export duties and other fiscal charges including value added taxes on Resources to be used for the Projects and Programmes mentioned in Article 2 and imported into the Republic of Bulgaria during the entire period of their assignment;

d) i) make provision for admission under the regime of temporary import without guarantee or for purchase from bond of one motor vehicle by each member of Personnel staying for a period longer than one year within six months of first arrival in the Republic of Bulgaria except in special circumstances when that period might be extended or renewed;

ii) if a motor vehicle is beyond economic repair due to age or use, provision shall be made for its disposal in the Republic of Bulgaria. Such disposal shall be without any costs to the Netherlands Party, including payment of import duty, fees, excise and value added taxes. In such a case, provision shall be made, on a case-by-case basis, for the importation or purchase of a similar vehicle in accordance with the provision governing the procurement of the original vehicle;

iii) notwithstanding paragraph (i) above, a motor vehicle which is not beyond economic repair due to age or use may be sold. However, if it is sold to a person who is not likewise privileged as Personnel, it shall be subject to payment of the appropriate import duty, fees, excise or value added taxes;

- e) exempt Personnel and their Dependants who are neither citizens nor permanent residents, from national service obligations;
- f) provide assistance to Personnel and their Dependants in security clearance and customs formalities and furnish to Personnel and their Dependants free visas and stay allowances for the period of implementation of the Projects and Programmes within the framework of this Agreement. Personnel and their Dependants shall be provided with a visa either before their departure from the Kingdom of the Netherlands or on arrival in the Republic of Bulgaria;
- g) afford Personnel and their Dependants the same repatriation or evacuation facilities in times of national or international crisis as provided for staff of diplomatic missions under the Vienna Convention on diplomatic relations;
- h) exempt Personnel from registration, examination and other such requirements relative to their professional capacity;
- i) provide Personnel with identity documents to assure them of the full assistance of the appropriate authorities of the Republic of Bulgaria in the performance of their duties;
- j) without prejudice to the foreign exchange regulations prevailing in the Republic of Bulgaria, impose no currency or foreign exchange restriction on funds introduced into the Republic of Bulgaria from external sources by Personnel and their Dependants for personal use; external accounts opened in the Republic of Bulgaria by Personnel and their Dependants shall remain at their exclusive disposal, and balances of such accounts shall be freely transferable, provided that such accounts have been fed exclusively from external sources; otherwise the account shall be subject to the usual exchange control provisions.

2. The Republic of Bulgaria shall ensure that Personnel and their Dependants are accorded treatment no less favourable than that accorded to comparable Personnel and their Dependants of any other State or organization.

Article 7

Immunities and claims

1. The Republic of Bulgaria shall grant immunity to Personnel from legal action in respect of any act or omission or any words spoken or written in their official capacity.

2. The Republic of Bulgaria shall hold harmless the Kingdom of the Netherlands for contractual civil liability for Projects and Programmes and shall indemnify and hold harmless the Kingdom of the Netherlands and members of Personnel for extra-contractual civil liability arising from any act or omission to act on the part of the Netherlands Party and Personnel connected with the implementation of the obligations resulting from the Projects and Programmes referred to in Article 1 of this

Agreement, which causes the death of or physical injury to a third party or damage to the property of a third party, in so far as this liability is not covered by insurance. The Republic of Bulgaria shall abstain from making any claim or undertaking any action to enforce extra-contractual civil liability unless such liability derives from wilful misconduct or is a result of gross negligence, while acting or failing to act.

3. If the Republic of Bulgaria holds harmless the Kingdom of the Netherlands and Personnel against a claim or extra-contractual civil liability in accordance with paragraph 2 of this Article, the Republic of Bulgaria may exercise all rights to which the Kingdom of the Netherlands or Personnel are entitled.

Article 8

Performance of personnel

1. Without prejudice to the privileges and immunities specified in this Agreement, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Republic of Bulgaria.

2. The privileges and immunities granted to Personnel on the basis of this Agreement shall not extend to acts or activities performed outside the course of their duties in accordance with the Projects and Programmes referred to in Article 1.

3. The Republic of Bulgaria shall assist Personnel in all possible ways in the execution of their obligations.

4. Should the conduct of a member of Personnel be deemed unsatisfactory or if a member of Personnel does not carry out the obligations of this Agreement or as agreed upon in a Project or Programme as referred to in Article 1, the Bulgarian Party has the right, after consulting the Government of the Kingdom of the Netherlands, to request the recall of this member of Personnel.

5. The Netherlands Party has the right, after consulting the Bulgarian Party, to recall a member of Personnel at any time. If a member of Personnel is recalled, the Netherlands Party will make effort to provide an appropriate replacement for this member of Personnel.

Article 9

Arrest, detention

1. Notwithstanding the rights and duties of the Kingdom of the Netherlands and the Republic of Bulgaria under international consular conventions, the Republic of Bulgaria shall promptly notify the Kingdom of the Netherlands if a member of Personnel or a Dependant is arres-

ted, imprisoned, taken into pre-trial detention or otherwise held in custody. All messages to the Kingdom of the Netherlands from Personnel and their Dependants in the event of arrest, imprisonment, pre-trial detention or custody, shall be forwarded to the Kingdom of the Netherlands, without delay, by the Republic of Bulgaria.

2. Representatives of the Kingdom of the Netherlands shall be entitled to visit, speak to and correspond with Personnel and their Dependants who have been arrested, imprisoned, taken into pre-trial detention or otherwise held in custody and shall be entitled to make arrangements for their legal representation.

Article 10

Settlement of disputes

1. Any dispute between the Kingdom of the Netherlands and the Republic of Bulgaria concerning the interpretation or application of the Agreement shall be settled through negotiation or any other peaceful means agreed by the Republic of Bulgaria and the Kingdom of the Netherlands.

2. If the dispute cannot be settled through the means mentioned in paragraph 1 above it may be submitted, at the request of the Republic of Bulgaria or the Kingdom of the Netherlands to final and binding arbitration in accordance with the rules of the Permanent Court of Arbitration in The Hague.

Article 11

Entry into force, termination, territorial scope

1. This Agreement shall enter into force on the date of the last written notification by which the Contracting Parties notify each other through diplomatic channels that all the requirements provided for in their national legislation for entry into force of this Agreement have been complied with.

2. This Agreement is concluded for an indefinite period of time. Each Contracting Party has the right to terminate the Agreement by written notice. The termination shall become effective six months after the notification has been received by the other Contracting Party.

3. Any Project or Programme which is initiated under this Agreement but could not be completed before the termination of this Agreement shall, until its completion, continue to be governed by the provisions of this Agreement.

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

DONE at The Hague on 30 September 1998, in duplicate in the English language.

For the Government of the Kingdom of the Netherlands

(sd.) G. YBEMA

For the Government of the Republic of Bulgaria

(sd.) V. VASSILEV

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring der Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 11, eerste lid, in werking treden op de datum van de laatste schriftelijke kennisgeving langs diplomatieke weg van de Partijen aan elkaar dat aan de vereisten die in hun nationale wetgeving zijn voorzien voor de inwerkingtreding van het Verdrag, is voldaan.

J. GEGEVENS

Het Internationale Hof van Arbitrage, naar welk Hof in artikel 10, tweede lid, van het onderhavige Verdrag wordt verwezen, is ingesteld bij het Verdrag van 's-Gravenhage van 29 juli 1899 voor de vreedzame beslechting van internationale geschillen. Genoemd Verdrag is herzien door het gelijknamige Verdrag van 's-Gravenhage van 18 oktober 1907. De tekst van dat Verdrag is bekendgemaakt bij Koninklijk Besluit van 22 februari 1910 in Stb. 73 en is tevens geplaatst in *Trb.* 1963, 158; zie ook, laatstelijk, *Trb.* 1981, 96.

Uitgegeven de tweeëntwintigste oktober 1998.

De Minister van Buitenlandse Zaken,

J. J. VAN AARTSEN