

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2001 Nr. 117

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A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika inzake de geldendmaking van verplichtingen tot levensonderhoud;  
Washington, 30 mei 2001*

B. TEKST

**Agreement between the Government of the Kingdom of the Netherlands and the Government of the United States of America for the enforcement of maintenance (support) obligations**

The Government of the Kingdom of the Netherlands and the Government of the United States of America (hereinafter referred to as the Parties),

Resolved to establish a uniform and effective framework for the enforcement of maintenance obligations and the recognition of maintenance decisions, and

In accordance with procedures for the conclusion of reciprocal enforcement of maintenance agreements required by legislation of the Kingdom of the Netherlands and authorized by the United States Congress in section 459A of the Social Security Act, Title 42, United States Code, section 659A,

Have agreed as follows:

Article I

*Objective*

1. Subject to the provisions of this Agreement, the Parties hereby seek to provide for:

a. the recovery of maintenance or the reimbursement of maintenance to which a maintenance creditor or a public body having provided be-

nefits for a maintenance creditor subject to the jurisdiction of one Party (hereinafter referred to as the claimant) is entitled from a maintenance debtor who is subject to the jurisdiction of the other Party (hereinafter referred to as the respondent), and

b. the recognition and enforcement of maintenance orders, reimbursement orders and settlements (hereinafter referred to as maintenance decisions) made or recognized within the jurisdiction of either Party.

## Article II

### *Scope*

1. This Agreement shall apply to maintenance obligations arising from a family relationship or parentage, including a maintenance obligation towards a child born out of wedlock. However, a maintenance obligation towards a spouse or former spouse where there are no minor children will be enforced in the United States under this Agreement only in those states and other jurisdictions of the United States that elect to do so.

2. This Agreement applies to the collection of payment arrears on a valid maintenance obligation and any applicable interest on arrears and to the modification or other official change in amounts due under an existing maintenance decision.

3. The remedies provided for in this Agreement are not exclusive and do not affect the availability of any other remedies for the enforcement of a valid maintenance obligation.

## Article III

### *Central Authorities*

1. The Parties shall each designate a body as Central Authority which shall facilitate compliance with the provisions of this Agreement.

2. The Central Authority for the Kingdom of the Netherlands shall be the Transmitting and Receiving Agency under the Convention on the Recovery Abroad of Maintenance concluded at New York on 20 June, 1956, as designated in the Netherlands legislation implementing that Convention. Powers and duties of the Netherlands Central Authority under this Agreement shall also include the powers and duties set out in that legislation.

3. The Central Authority for the United States of America shall be the Office of Child Support Enforcement in the Department of Health and Human Services, as authorized by Title IV-D of the Social Security Act. Powers and duties of the United States Central Authority under this Agreement shall also include the powers and duties set out in that legislation.

4. The Parties may designate additional public bodies to carry out any of the provisions of this Agreement in co-ordination with the Central Authority.

5. Any changes in the designation of the Central Authority or other public bodies by one Party shall be communicated promptly to the Central Authority of the other Party.

6. Communications shall be addressed by the Central Authority or other public body of one Party directly to the Central Authority or other responsible public body of the other Party as designated by that Party.

#### Article IV

##### *Applications and Transmission of Documents and Judicial Assistance*

1. An application for the recovery or reimbursement of maintenance from a respondent subject to the jurisdiction of one of the Parties (hereinafter the Requested Party) shall be made by the Central Authority or other designated public body of the other Party (hereinafter the Requesting Party), in accordance with the applicable procedures of the Requesting Party.

2. The application shall be made on a standard form in English to be agreed upon by the Central Authorities of both Parties, and shall be accompanied by all relevant documents. All documents shall be translated into English or, when required by the Central Authority of the Kingdom of the Netherlands, into Dutch.

3. The Central Authority or other designated public body of the Requesting Party shall transmit the documents referred to in paragraphs 2 and 5 of this Article to the Central Authority or other designated public body of the Requested Party.

4. Before transmitting the documents to the Requested Party, the Central Authority or other designated public body of the Requesting Party shall satisfy itself that they comply with the law of the Requesting Party and the requirements of this Agreement.

5. When the application is based on or the documents include a decision issued by a competent court or agency establishing paternity or for the payment of maintenance:

a. the Central Authority of the Requesting Party shall transmit a copy of the decision certified or verified in accordance with the requirements of the Requested Party;

b. the decision shall be accompanied by a statement of finality or, if not final, a statement of enforceability and by evidence that the respondent has appeared in the proceedings or has been given notice and an opportunity to appear;

c. the Central Authority or other designated public body of the Requesting Party shall notify the Central Authority or other designated

body of the Requested Party of any subsequent change by operation of law in the amount required to be enforced under the decision.

6. In carrying out their tasks under this Agreement, the Parties shall provide each other assistance and information within the limits of their respective laws, and consistent with any treaties related to judicial assistance in force between the Parties.

7. All documents transmitted under this Agreement shall be exempt from legalisation.

#### Article V

##### *Functions of the Central Authority of the Requested Party*

The Central Authority or other designated public body of the Requested Party shall take on behalf of the claimant all appropriate steps for the recovery or reimbursement of maintenance, including the institution and prosecution of proceedings for maintenance, the determination of paternity where necessary, the execution of any judicial or administrative decision and the collection and distribution of payments collected.

#### Article VI

##### *Costs of Services*

All procedures described in this Agreement, including services of the Central Authority, and necessary legal and administrative assistance, shall be provided by the Requested Party without cost to the claimant. The costs of testing blood or tissue for paternity determinations shall be borne by the Party in which jurisdiction the proceeding takes place. A Party may assess costs in any proceeding against the respondent appearing in that Party's jurisdiction.

#### Article VII

##### *Recognition and Enforcement of Maintenance Decisions*

1. Maintenance decisions, including maintenance decisions arising from a determination of paternity from the United States shall be recognized and enforced in the Kingdom of the Netherlands to the extent that the facts in the case support recognition and enforcement under the Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations, concluded on 2 October, 1973, at The Hague as if that instrument were in force between the Parties.

2. Maintenance decisions, including maintenance decisions arising from a determination of paternity, from the Kingdom of the Netherlands shall be recognized and enforced in the United States to the extent that the facts in the case support recognition and enforcement in accordance with the Uniform Interstate Family Support Act as if that law were in force between the Parties.

#### Article VIII

##### *Applicable Law*

1. All actions and proceedings under this Agreement by either Party shall be carried out pursuant to the law, including choice of law provisions and procedures, of that Party.

2. The physical presence of the child or custodial parent shall not be required in proceedings under this Agreement within the jurisdiction of the Requested Party.

#### Article IX

##### *Territorial Application*

1. For the Kingdom of the Netherlands, this Agreement shall apply to its territory in Europe. Its applicability may be extended by written agreement of the Parties either in its entirety or with any necessary modifications to the Netherlands Antilles and/or Aruba.

2. In the case of an extension of the applicability of this Agreement to the Netherlands Antilles and/or Aruba, either Party shall be entitled to terminate the application of this Agreement in respect of any of the separate parts of the Kingdom in accordance with the termination procedures of Article 11.

3. For the United States of America, this Agreement shall apply to the fifty states, American Samoa, the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, and any other jurisdiction of the United States participating in Title IV-D of the Social Security Act.

#### Article X

##### *Entry into Force*

1. This Agreement shall enter into force on the date on which the Government of the Kingdom of the Netherlands notifies the Government of the United States of America that the constitutional requirements of the Kingdom of the Netherlands for the entry into force have been fulfilled.

2. This Agreement shall apply to any outstanding maintenance decision, or payment accrued under such decision, regardless of the date of that decision.

## Article XI

*Termination*

1. Either Party may terminate this Agreement by notification in writing addressed to the other Party through the diplomatic channel. The termination shall take effect on the first day of the third month following the receipt of the notification.

2. In the event of either Party's inability, owing to its domestic law, to carry out its obligations under this Agreement, that Party may suspend application of this Agreement, or with the agreement of the other Party, any part of this Agreement or application of this Agreement in respect of a portion of its territory. The suspension and, as the case may be, the other Party's agreement to partial suspension shall be notified in writing through the diplomatic channel.

3. The suspension shall take effect upon the date of the receipt of notification of the suspension, provided, however, that the suspension shall not take effect sooner than thirty days after a notification is made pursuant to paragraph 4 that there is good cause to believe that a situation as referred to in paragraph 2 may occur. A partial suspension shall take effect upon receipt of the notification of the other Party's agreement to a partial suspension.

4. In the event that a Party deems that there is good cause to believe that a situation as referred to in paragraph 2 may occur, that Party shall so notify the other Party as far in advance as possible of giving notice of suspension under that paragraph. In such circumstances, the Parties shall consult on how to minimize the potential unfavorable effects on the continued recognition and enforcement of maintenance obligations covered by this Agreement.

5. In the event of suspension or termination, the Parties will seek, to the fullest extent practicable in accordance with domestic law, to minimize unfavorable effects on the continued recognition and enforcement of maintenance obligations covered by this Agreement.

6. Termination or suspension under this Article shall not affect the legal status of any maintenance decision already registered or declared enforceable under the domestic law of a Party.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, in duplicate, this thirtieth day of May, 2001, in the English language.

*For the Government of the Kingdom of the Netherlands:*

(s.) J. M. VOS

*For the Government of the United States of America:*

(s.) WILLIAM H. TAFT

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D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zullen ingevolge artikel 10 van de Overeenkomst in werking treden op de dag waarop beide Partijen elkaar hebben medegedeeld dat aan de vereisten voor de inwerkingtreding is voldaan.

J. GEGEVENS

Van het op 20 juni 1956 te New York tot stand gekomen Verdrag inzake het verhaal in het buitenland van uitkeringen tot onderhoud, naar welk Verdrag in artikel 3, tweede lid, van de onderhavige Overeenkomst wordt verwezen, zijn de Engelse en Franse tekst alsmede de vertaling geplaatst in *Trb.* 1957, 121. Zie ook, laatstelijk, *Trb.* 1996, 54.

Van het op 2 oktober 1973 te 's-Gravenhage tot stand gekomen Verdrag inzake de erkenning en de tenuitvoerlegging van beslissingen over onderhoudsverplichtingen, naar welk Verdrag wordt verwezen in artikel 7, eerste lid, van de onderhavige Overeenkomst, zijn de Franse en Engelse tekst alsmede de vertaling geplaatst in *Trb.* 1974, 85. Zie ook, laatstelijk, *Trb.* 1994, 98.

Uitgegeven de *achtentwintigste* juni 2001

*De Minister van Buitenlandse Zaken,*

J. J. VAN AARTSEN