

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2001 Nr. 96

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Republiek der
Filipijnen inzake de export van sociale verzekeringsuitkeringen;
Manilla, 10 april 2001*

B. TEKST

**Agreement between the Kingdom of the Netherlands and the
Republic of the Philippines on the export of social insurance
benefits**

The Kingdom of the Netherlands

and

the Republic of the Philippines,

Desiring to allow the lawful payment of its social insurance benefits
in each other's country,

Have therefore agreed on the following:

Article 1

Definitions

1. For the purpose of this Agreement:

- a) "contracting parties" means the Kingdom of the Netherlands and the Republic of the Philippines;
- b) "territory" means in relation to the Kingdom of the Netherlands the territory of the Kingdom in Europe, and in relation to the Republic of the Philippines, the territory as defined in the 1987 Constitution;
- c) "legislation" means the laws, ordinances and administrative regulations relating to the social insurance schemes mentioned under Article 2;
- d) "competent authority" means in relation to the Kingdom of the Netherlands the Minister of Social Affairs and Employment of the Neth-

erlands; in relation to the Republic of the Philippines, the President and Chief Executive Officer of the Social Security System;

e) “competent institution” means in relation to the Kingdom of the Netherlands regarding the legislation meant in Article 2, paragraph 1, under a, b, and c: the “Landelijk instituut sociale verzekeringen” (National Institute for Social Insurance) c/o Gak Nederland bv or its legal successor and regarding the legislation meant in Article 2, paragraph 1, under d, e, and f: the “Sociale Verzekeringsbank” (Social Insurance Bank); in relation to the Republic of the Philippines, the Social Security System for the private sector workers and the Government Service Insurance System for the public sector workers;

f) “agency” means every organization that is involved in the implementation of this Agreement, including the population registers, tax authorities, marriage registers, employment agencies, schools and other educational institutes, trade authorities, police, prison service and immigration offices;

g) “benefit” means every cash benefit or pension under the legislation referred to under Article 2;

h) “beneficiary” means every person who applies for or who is entitled to a benefit;

i) “member of the family” means a person defined, or recognized as such by the legislation applied by the Netherlands’ competent institutions.

2. Other terms used in this Agreement shall have the meaning given to them under the legislation which is being applied.

Article 2

Material scope

1. This Agreement shall apply

A) With respect to the Kingdom of the Netherlands, to the Netherlands legislation on:

- (i) sickness insurance (benefits in the case of sickness and maternity);
- (ii) disablement insurance for employed persons;
- (iii) disablement insurance for self-employed persons;
- (iv) old age insurance;
- (v) survivors’ insurance; and
- (vi) children’s allowances.

B) With respect to the Republic of the Philippines, to the Philippine legislation on:

- (i) disability benefits;
- (ii) sickness benefits;
- (iii) death benefits;
- (iv) retirement benefits; and
- (v) maternity benefits.

2. This Agreement shall also apply to laws and regulations which extend the existing schemes to new categories of persons only if the Contracting Party amending its legislation within six (6) months of the date of the coming-into-force of such laws and regulations does not forward a contradicting notification to the other Contracting Party.

Article 3

Personal Scope

Unless otherwise provided in this Agreement, this Agreement shall apply to a beneficiary as well as to a member of his family insofar as he resides or stays in the territory of the Contracting Parties.

Article 4

Export of Benefits

Unless otherwise provided for in this Agreement, any provision of the legislation which restricts payment of benefits solely because a beneficiary or a member of his family resides or stays outside the territory of a Contracting Party, shall not be applicable with respect to a beneficiary or to a member of his family who resides or stays in the territory of the Contracting Parties.

Article 5

Verification of Applications and Payments

1. Concerning the application for or the legitimacy of payment of benefits, the competent institution of a Contracting Party shall, at the request of the competent institution of the other Contracting Party, verify the information, referred to under paragraph 2, regarding a beneficiary or a member of his family. If necessary, this verification is to be carried out with the agencies. The competent institution shall forward a statement of the verification along with authenticated copies of the relevant documents to the competent institution of the other Contracting Party.

2. The information referred to in the first paragraph includes information regarding identity, address, household, employment, education, income, medical condition, death and detention.

3. The competent institutions of the Contracting Parties shall directly contact each other, as well as a beneficiary, a member of his family, or his authorized representatives.

4. Without prejudice to the provision of paragraph 1, the diplomatic or consular representatives and the competent institutions of a Contracting Party are allowed to contact the agencies of the other Contracting Party directly in order to verify entitlement to benefits and legitimacy of payments to the beneficiaries.

5. For the purposes of implementing this Agreement, the agencies shall lend their good offices and act as though implementing their own legislation. The administrative assistance extended by the said agencies shall, as a rule, be free of charge. However, competent authorities of the Contracting Parties may agree to certain expenses being reimbursed.

6. Notwithstanding paragraph 1, the competent institutions of a Contracting Party shall, to the extent possible and without prior request, inform the competent institution of the other Contracting Party on changes in the information referred to in paragraph 2.

Article 6

Identification

In order to determine the entitlement to benefits and legitimacy of payments under the legislation of a Contracting Party, a person who falls under the scope of this Agreement is obliged to identify himself by submitting an official proof of identity to the competent institution of the Contracting Party in whose territory he resides or stays. The competent institution identifies the beneficiary or a member of his family on the basis of this identification. Identification includes a passport or any other valid proof of identity issued by an agency of the other Contracting Party. The competent institution will inform the competent institution of the other Contracting Party that the identity of the beneficiary, or a member of his family, has been verified by sending an authenticated copy of the identification document.

Article 7

Verification of Information in case of Sickness or Disability

1. At the request of the competent institution of a Contracting Party, the medical examination of a beneficiary residing or staying in the territory of the other Contracting Party shall be carried out by the competent institution of the latter Contracting Party.

2. In order to determine the degree of disability for work, the competent institutions of both Contracting Parties shall use the medical reports and the administrative data provided by the competent institution of the other Contracting Party, but they nevertheless reserve the right to have the beneficiary examined by a doctor of its own choice or to summon the person involved to undergo a medical examination in its territory.

3. The person involved is obliged to comply with a request as meant in paragraph 1 by presenting himself for medical examination. If he feels that, for medical reasons, he is unfit to travel to the territory of the Contracting Party where he has been summoned by the competent institu-

tion, he must inform that institution immediately. He will then be obliged to submit a medical statement issued by a doctor designated for this purpose by the competent institution. This statement must include the medical reasons for his unfitness for travelling as well as the expected duration of this unfitness.

4. The cost of the examination and, as the case may be, the expenses for travel and accommodation shall be paid for by the competent institution at whose request the examination is carried out.

Article 8

Recovery of Undue Social Insurance Payments and collection of Social Insurance Contributions

1. Any enforceable court decisions or decrees by the competent institutions of a Contracting Party regarding the recovery of undue social insurance payments or the collection of social insurance contributions shall be recognized by the other Contracting Party, in accordance with its laws.

2. Recognition may be refused if it is contrary to the public order of the Contracting Party or the decision or decree should be enforced.

3. Any enforceable decisions or decrees which are recognized in accordance with paragraphs 1 and 2 shall be implemented by the other Contracting Party. Enforcement is subject to the statutory regulations which apply in the Contracting Party in whose territory the decision or decree is to be carried out, governing the execution of similar decisions or decrees issued in that Contracting Party. Confirmation that a decision or decree is enforceable must be stated in the authentic copy of that decision or decree.

4. The competent institution of a Contracting Party may, by virtue of an enforceable decision regarding undue social insurance payments, request the competent institution of the other Contracting Party that the undue paid benefits be balanced with the arrears of amounts still due to the beneficiary in the other Contracting Party. Upon such a request, the latter institution shall deduct the amount in accordance with, and within the limits of the legislation implemented by the institution, and shall remit the amount to the institution which is entitled to reimbursement.

5. Where applicable, costs made for the execution of any enforceable decision or decree such as legal costs, are paid for by the competent institution whose decision or decree is to be executed.

Article 9

Refusal to Pay, Suspension, Withdrawal

The competent institution of a Contracting Party may refuse to pay, suspend or withdraw any benefit, if in its judgement:

- a) a beneficiary fails to undergo any examinations or provide any information as required under this Agreement within a period of three (3) months upon receipt of notification, or
- b) if the competent institution of the other Contracting Party fails to provide any information or fails to carry out any examinations as required under this Agreement within a period of three (3) months upon receipt of notification.

Article 10

Settlement of Disputes

The competent authorities of both Contracting Parties shall make all reasonable efforts to resolve through mutual agreement any dispute arising from the interpretation or application of this Agreement.

Article 11

Confidentiality of Information

Any information and/or documents furnished by a Contracting Party as requested by the other Contracting Party shall be deemed confidential and used exclusively for the purpose for which they were requested.

Article 12

Implementation of Agreement

The competent institution of both Contracting Parties may, by means of supplementary arrangements, establish measures for the implementation of this Agreement.

Article 13

Entry into Force, Application of the Agreement, and Amendment

1. This Agreement shall enter into force on the first day of the second month following the date of the later written notification by either Contracting Party, through diplomatic channels, on the understanding that Article 4 shall be applied provisionally from the first day of the second month following the date of signing of this Agreement.
2. In relation to the Kingdom of the Netherlands, this Agreement shall only apply to the territory of the Kingdom in Europe.
3. Any amendment or revision to the text of this Agreement shall be done by mutual consent of the Contracting Parties. This amendment or revision shall enter into force in accordance with paragraph 1 of this Article.

Article 14

Duration of the Agreement

This Agreement shall remain effective indefinitely. It may be denounced in writing at any time by either Contracting Party by giving notice to the other Contracting Party. In the event of the denunciation, this Agreement shall remain effective until the end of the calendar year following the year in which the notice of denunciation has been received by the other Contracting Party.

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

DONE in duplicate in Manila this 10th day of April 2001, in the English language.

For the Government of the Kingdom of the Netherlands

(s.) H. E. THEO ARNOLD

H. E. Theo Arnold
Ambassador

For the Government of the Republic of the Philippines

(s.) VITALIANO N. NAÑAGAS II

Vitaliano N. Nañagas II
President and CEO, Social Security System

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.

De voorlopige toepassing van artikel 4 van het Verdrag (zie rubriek G hieronder) is medegedeeld aan de Eerste en de Tweede Kamer der Staten-Generaal bij brieven van 27 april 2001.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 13, eerste lid, in werking treden op de eerste dag van de tweede maand volgend op de datum van ontvangst van de laatste kennisgeving dat aan de vereisten voor inwerkingtreding is voldaan.

Ingevolge artikel 11, eerste lid, zal artikel 4 van het Verdrag vanaf 1 juni 2001 voorlopig worden toegepast.

Wat het Koninkrijk der Nederlanden betreft, zal het Verdrag alleen voor Nederland gelden.

J. GEGEVENS

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 *eenentwintigste* mei 2001.

De Minister van Buitenlandse Zaken,

J. J. VAN AARTSEN