

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2002 Nr. 211

A. TITEL

Notawisseling houdende een interimverdrag tussen het Koninkrijk der Nederlanden en het Internationaal Strafhof betreffende de zetel van het Internationaal Strafhof; 's-Gravenhage, 19 november 2002

B. TEKST

Nr. I

Ministerie van Buitenlandse Zaken
Treaties Division

The Hague, 19 November 2002

DJZ/VE-1074/02

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the International Criminal Court and has the honour to propose, in order to facilitate the work of the Court and with reference to Article 3 of the Statute of the Court, that, for the period until the entry into force of the headquarters agreement between the Kingdom of the Netherlands and the Court, an interim headquarters agreement be concluded which shall read as follows:

Article 1

- (i) "The Statute" means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court;
- (ii) "The Court" means the International Criminal Court established by the Statute;
- (iii) "The Tribunal" means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International

Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by the Security Council pursuant to its resolutions 808 (1993) and 827 (1993);

- (iv) “The Tribunal headquarters agreement” means the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the Tribunal, signed in New York on 29 July 1994;
- (v) “The General Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946.

Article 2

Unless otherwise provided in this Agreement, the Tribunal headquarters agreement, attached in Annex 1, shall apply *mutatis mutandis* to the Court.

Article 3

1. State representatives not covered by Article 2 of this Agreement shall enjoy the same privileges and immunities as representatives of Members pursuant to Article IV of the General Convention.

2. Victims as referred to in Article 68 of the Statute shall, to the extent necessary for their presence at the seat of the Court, enjoy the same privileges and immunities as witnesses and experts pursuant to Article XVIII of the Tribunal headquarters agreement.

3. Legal representatives of victims shall, to the extent necessary for their presence at the seat of the Court, enjoy the same privileges and immunities as counsel pursuant to Article XIX of the Tribunal headquarters agreement.

4. Other persons mentioned in Article 48 of the Statute and not covered by Article 2 of this Agreement shall, to the extent necessary for their presence at the seat of the Court, enjoy the same privileges and immunities as witnesses and experts pursuant to Article XVIII of the Tribunal headquarters agreement.

Article 4

1. Privileges and immunities under this Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves. Such privileges and immunities may be waived in accordance with Article 48, paragraph 5 of the Statute and there is a duty to do so in any case where they would impede the course of justice and can be waived without prejudice to the purpose for which they are accorded.

2. In addition to Article 48, paragraph 5 of the Statute, the following rules shall apply to the Court concerning waiver of privileges and immunities:

a) The privileges and immunities of personnel recruited locally and not otherwise covered by this Article may be waived by the head of the organ of the Court employing such personnel.

b) The privileges and immunities of counsel and persons assisting defence counsel, witnesses and victims, legal representatives of victims, and other persons required to be present at the seat of the Court, may be waived by the Presidency.

c) The privileges and immunities of experts may be waived by the head of the organ of the Court appointing the expert.

Article 5

The Parties to this Agreement agree to consult on further practical arrangements whenever necessary.

Article 6

1. This Agreement shall be in force for a period of six months. It shall automatically be prolonged by periods of one year, unless one Party informs the other Party by Diplomatic Note at least one month before its termination of its decision to denounce this Agreement.

2. Notwithstanding the previous paragraph, this Agreement shall cease to be in force at the date on which the headquarters agreement concluded between the Court and the Kingdom of the Netherlands shall enter into force.

If this proposal is acceptable to the International Criminal Court, the Ministry proposes that this note and the affirmative note of the International Criminal Court shall constitute an Agreement between the Kingdom of the Netherlands and the International Criminal Court, which shall enter into force on the date of receipt of the affirmative note of the International Criminal Court.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the International Criminal Court the assurances of its highest consideration.

The International Criminal Court

Annex 1

Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

Nr. II

Director of Common Services International Criminal Court

The Hague, November 19 2002

REFERENCE: DCS/NO1/BC/LA

The International Criminal Court presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to acknowledge receipt of the Ministry's Note DJZ/VE-1074/02 of 19 November 2002, which reads as follows:

(Zoals in Nr. I)

The International Criminal Court has the honour to inform the Ministry of Foreign Affairs that the proposal is acceptable to the Court. The Court accordingly agrees that the Ministry's Note and this reply shall constitute an Agreement between the International Criminal Court and the Kingdom of the Netherlands.

The International Criminal Court avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Kingdom of the Netherlands the assurances of its highest consideration.

(sd.) BRUNO CATHALA

Bruno Cathala
Director of Common Services

*The Ministry of Foreign Affairs
of the Kingdom of the Netherlands
The Hague*

D. PARLEMENT

Het in de nota's vervatte verdrag behoeft ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal, alvorens in werking te kunnen treden.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zijn ingevolge het gestelde in de voorlaatste alinea van nota Nr. I op 19 november 2002 in werking getreden.

Wat het Koninkrijk der Nederlanden betreft, geldt het verdrag alleen voor Nederland.

J. GEGEVENS**Verwijzingen:**

- Titel : Statuut van Rome inzake het Internationaal Strafhof;
Rome, 17 juli 1998
- Tekst : *Trb.* 2002, 120 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 2002, 135
- Titel : Verdrag tussen het Koninkrijk der Nederlanden en
de Verenigde Naties betreffende de zetel van het
International Tribunaal voor de vervolging van
personen verantwoordelijk voor ernstige schendingen
van het internationaal humanitair recht op het grond-
gebied van het voormalig Joegoslavië sedert 1991;
New York, 29 juli 1994
- Tekst : *Trb.* 1994, 189 (Engels)
- Laatste *Trb.* : *Trb.* 2001, 150
- Titel : Verdrag nopens de voorrechten en immuniteiten van
de Verenigde Naties;
Londen, 13 februari 1946
- Tekst : *Stb.* 1948, I 224 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 1994, 210

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

Uitgegeven de *derde* december 2002.

De Minister van Buitenlandse Zaken,

J. G. DE HOOP SCHEFFER