

9 (2004) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2004 Nr. 189

A. TITEL

*Notawisseling houdende een verdrag tussen het Koninkrijk der
Nederlanden en het Rwanda Tribunaal ten behoeve van een in
Nederland verblijvende getuige voor het Speciale Gerechtshof voor
Rwanda;
Arusha, 22 mei 2004*

B. TEKST

Nr. I

ROYAL NETHERLANDS EMBASSY

Arusha, 14 May 2004

The Royal Netherlands Embassy presents its compliments to the Prosecutor of the International Criminal Tribunal for Rwanda (hereinafter referred to as "the ICTR"), and has the honour to refer to the Confidential Request for Assistance by the Prosecutor of 28 April 2004 regarding the testimony of Witness 006 in Case Nos. ICTR-98-44-T, ICTR-98-41-T, and ICTR-99-50-T, which was received by Confidential Note of the Chief of the Victims & Witnesses Section of the International Criminal Tribunal for the Former Yugoslavia of 28 April 2004.

The Embassy is pleased to inform the Prosecutor, that this request for assistance is acceptable under the conditions as set out below.

1. The Embassy refers to the *Exchange of Letters of 22 and 24 April 1996 between the Government of the Kingdom of the Netherlands and the United Nations containing a Treaty regarding the application of the 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* (the ICTY Headquarters Agreement). The Parties

to the said Exchange of Letters agreed that in order to facilitate activities and proceedings that may be undertaken from time to time by the ICTR in The Hague, the pertinent provisions of the ICTY Headquarters Agreement are applicable, *mutatis mutandis*, to such activities and proceedings by the ICTR.

2. Consequently, the Embassy confirms that Article XVIII, Article XXI, paragraph 1 and 2, Article XXII, Article XXIII, Article XXIV, paragraph 1, and Article XXVI of the ICTY Headquarters Agreement will apply in this case.

3. However, in view of the special circumstances of this case:

- the notification referred to in Article XXII is deemed to be fulfilled; and
- the Embassy assumes that the Registrar of the ICTR will not use the right referred to in the last sentence of Article XXIII;

4. As to the application of Article XXVI, the Ministry of Justice of the Netherlands will:

- a) place Witness 006 in a Dutch Witness Protection Programme;
- b) meet Witness 006 at the point of his arrival, which will be timely communicated by or on behalf of the Registrar of the ICTR to the Ministry of Justice;
- c) provide safe accommodation for Witness 006 throughout his stay in the Netherlands;
- d) provide secure transfer for Witness 006 from the point of arrival to the safe accommodation, daily from the safe accommodation to the main premises of the UN-ICTY, and from the safe accommodation or the main premises of the UN-ICTY to the point of departure from the Netherlands;
- e) not allow that Witness 006 receives visitors, with the exception of the Source Handler of the Office of the Prosecutor who has been designated as such by the Prosecutor, as well as the Counsel who have been authorised by the Trial Chamber to be present at the hearing of Witness 006.

5. The rules of the aforementioned Dutch Witness Protection Programme will apply. Witness 006 can only be protected as far as he will follow the instructions by the police officers assigned to him.

6. The responsibility of the Dutch authorities for any claims by Witness 006, the UN or any third party does not go beyond the usual responsibility for witnesses under a Witness Protection Programme according to Dutch law.

7. All protection extended by the Dutch authorities will cease in case Witness 006 does not use the first possible opportunity of leaving the territory of the Netherlands after completion of his testimony. The ICTR will ensure that the stay of Witness 006 will be as short as possible.

8. The costs of the personnel providing security and the transfer costs will be borne by the Dutch authorities. All other costs, such as the rent

of safe accommodation, food, daily allowances and costs of travel to and from the Netherlands, will be borne by the ICTR.

9. This Agreement will have retroactive effect as from 11 May 2004 and will not exceed the duration of one year.

If this proposal is acceptable to the Prosecutor, the Embassy proposes that this note and the affirmative note of the Prosecutor will constitute an Agreement between the Kingdom of the Netherlands and the International Criminal Tribunal for Rwanda which will enter into force on the date of receipt of the Prosecutor's reply by the Embassy and which will have retroactive effect as from 11 May 2004.

The Royal Netherlands Embassy avails itself of this opportunity to renew to the Prosecutor of the International Criminal Tribunal for Rwanda the assurances of its highest consideration.

*To the Prosecutor of the International Criminal Tribunal for Rwanda
Arusha*

Nr. II

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania

Arusha, 22 May 2004

The Prosecutor of the International Criminal Tribunal for Rwanda presents his compliments to the Royal Netherlands Embassy, and has the honour to confirm receipt of the Embassy's Note of 14 May 2004, which reads as follows:

(Zoals in Nr. I)

The Prosecutor would like to thank the Ministry of Foreign Affairs of the Kingdom of the Netherlands for accepting the request under the conditions set out above and confirms that the terms and conditions as set out in the Note are agreeable and that the Embassy's Note and this Note will constitute an Agreement between the Kingdom of the Netherlands and the International Criminal Tribunal for Rwanda which will enter into force on the date of receipt of this Note by the Embassy and which will have retroactive effect as from 11 May 2004.

The Prosecutor avails himself of this opportunity to renew to the Royal Netherlands Embassy the assurances of his highest consideration.

H. B. JALLOW

Hassan Bubacar Jallow
Prosecutor

*To the Royal Netherlands Embassy
Dar es Salaam*

D. PARLEMENT

Het in de nota's vervatte verdrag behoeft ingevolge artikel 7, onderdeel c, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zijn ingevolge de voorlaatste alinea van beide nota's op 22 mei 2004 in werking getreden met terugwerkende kracht vanaf 11 mei 2004.

J. GEGEVENS

Verwijzing

Titel : Briefwisseling tussen de Regering van het Koninkrijk der Nederlanden en de Verenigde Naties houdende een verdrag inzake de toepassing van het tussen Partijen gesloten Verdrag betreffende de zetel van het Internationaal Tribunaal voor het voormalige Joegoslavië, op de werkzaamheden en handelingen van het Internationaal Tribunaal voor Ruanda; New York, 24 april 1996

Tekst : *Trb.* 1996, 143 (Engels)

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.