

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2007 Nr. 167

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A. TITEL

*Verdrag tussen de Regering van het Koninkrijk der Nederlanden en de Regering van de Republiek Zuid-Afrika betreffende de status van militair en civiel personeel van het Ministerie van Defensie van de verdragssluitende partijen, aanwezig op elkaars grondgebied voor activiteiten in het kader van militaire samenwerking;  
Pretoria, 8 juni 2007*

B. TEKST

**Agreement between the Government of the Kingdom of the Netherlands and the Government of the Republic of South Africa concerning the status of military and civilian personnel of their department / ministry of defence present in each other's territory for activities related to military cooperation**

Preamble

The Government of the Kingdom of the Netherlands and the Government of the Republic of South Africa (hereinafter jointly referred to as "the Parties" and in the singular as "a Party");

Considering that military and civilian personnel of the Department / Ministry of Defence of the Parties will be present in each other's territory for activities related to military cooperation;

Desiring to define the status of these military and civilian personnel;

Have agreed as follows:

Article 1

*Definitions*

In this Agreement, unless the context indicates otherwise:

"Personnel" means the military and civilian personnel of the Depart-

ment / Ministry of Defence of the Parties;

“Military Personnel” means the military personnel of the Department / Ministry of Defence of the Sending State, including foreign military personnel forming an integral part of military units of the Sending State on the basis of an exchange programme;

“Dependent” means the spouse of a member of the Personnel of the Sending State or a child of such member depending on him or her for support;

“Spouse” For the purpose of this Agreement spouse shall also mean persons having an equivalent relationship to marriage with a member of the Personnel of the Sending State as recognised by the domestic law in force in the territory of the Sending State.

## Article 2

### *Entry and exit requirements*

The authorities of the Receiving State shall allow the Personnel of the Sending State and their Dependents entry into and exit from the territory of the Receiving State in accordance with the national laws and international treaty obligations of the Receiving State.

## Article 3

### *Discipline and jurisdiction*

1. Disciplinary jurisdiction shall remain a prerogative of the competent authorities of the Sending State.

2. The Personnel of the Sending State shall respect and are subject to the domestic law in force in the territory of the Receiving State.

3. The Personnel of the Sending State shall enjoy immunity for any offence and any act committed during their stay in the Receiving State in the exercise of their official duties pursuant to this Agreement. In addition, the Personnel of the Sending State shall be immune from legal process of any kind for offences committed prior to their entry in the Receiving State.

4. The Government of the Receiving State may request the Government of the Sending State to waive the immunity of a member of the Personnel of the Sending State in cases of particular importance for the Receiving State. In such an event, the Parties shall consult with a view to safeguard each other's legitimate interests.

5. In the event that the authorities of the Receiving State take into custody any member of the Personnel of the Sending State for offences or acts for which he or she enjoys immunity pursuant to sub-Article (3), they shall hand over such custody to the officer in command of the

Personnel of the Sending State forthwith and shall send a written report on the matter to the said officer without delay.

6. The appropriate authorities of the Sending State shall inform the appropriate authorities of the Receiving State of their decision to institute legal action against the member of the Personnel of the Sending State and of the outcome of the procedures that have been initiated in the Sending State.

#### Article 4

##### *Importation, exportation and taxes*

1. In respect of equipment, materials, supplies and other property imported into or exported from the Receiving State by the Sending State in connection with the implementation of this Agreement and in respect of baggage, personal effects, products and other property for the personal use of the Personnel of the Sending State and of their Dependents imported into or exported from the territory of the Receiving State in connection with this Agreement, the domestic law in force in the territory of the Receiving State and, if applicable, the European Community laws on importation, exportation and transfer of goods shall apply.

2. A Sending State may import into the territory of the Receiving State in conformity with the national law in force in the territory of the Receiving State and, if applicable, the European Community laws, free of duty the equipment for the Personnel of the Sending State and reasonable quantities of provisions, supplies and other goods for the exclusive use of such Personnel.

3. The goods that have been imported duty-free under sub-Article (2), may be re-exported freely in conformity with the domestic law and, if applicable, the European Community laws, on exportation of goods and shall not be disposed of in the Receiving State by way of either sale or gift. However, in particular cases such disposal may be authorised on conditions imposed by the authorities concerned of the Receiving State.

4. Imports made by the authorities of the Sending State, the Personnel of the Sending State and their Dependents, other than for the exclusive use of the Sending State, the Personnel of the Sending State and their Dependents, shall not be entitled to any exemption from duty or other conditions.

5. Goods purchased in the Receiving State shall be exported there from only in accordance with the domestic law in force in the territory of the Receiving State and, if applicable, the European Union laws on exportation.

6. Military vehicles of a Sending State shall, to the extent provided for in the domestic law in force in the territory of the Receiving State, be exempt from any tax payable in respect of the use of vehicles on the roads.

7. Special arrangements shall be made between the Sending State and Receiving State in conformity with the domestic law and, if applicable, the European Community laws, so that fuel, oil and lubricants for use of military vehicles, aircraft and vessels may be delivered free of all duties and taxes.

8. Special arrangements for crossing frontiers shall be granted by the customs authorities of the Receiving State in conformity with the domestic law and, if applicable, the European Community laws, to regularly constituted units and formations, provided that the customs authorities concerned have been duly notified in advance.

#### Article 5

##### *Arms and uniforms*

1. The Military Personnel participating in military exercises may possess and carry arms on the condition that they are authorised to do so by their orders.

2. The Military Personnel may use arms and ammunition only for training purposes on locations specifically intended for such use by the Receiving State. These locations shall be further agreed upon between the appropriate authorities of the Receiving and Sending State.

3. The arms and ammunition shall be stored and guarded in accordance with the domestic law in force in the territory of the Receiving State.

4. The Military Personnel may wear their national military uniform while performing official duties.

#### Article 6

##### *Driving permits*

The Receiving State shall either:

a. accept as valid, without a driving test or fee, the current and valid driving permit or licence or military driving permit issued by the competent authorities of the Sending State to the Personnel of the Sending State; or

b. issue its own driving permit or licence to the Personnel of the Sending State who holds a current and valid driving permit or licence or military driving permit issued by the Sending State, provided that no driving test shall be required.

## Article 7

*Claims*

1. The Parties waive any claims against each other for damage to or loss of government property used by their armed forces and for injury (including injury resulting in death) suffered by their Personnel, arising out of official duties.

2. Sub-Article (1) is not applicable if damage to or loss of government property or injury suffered by the Personnel mentioned has been the result of gross negligence or wilful misconduct.

3. Third party claims (other than contractual claims) for any loss, damage or injury caused by the Personnel of the Sending State in the performance of their official duties shall be settled by the Receiving State on behalf of the Sending State in accordance with the domestic law in force in the territory of the Receiving State. Costs related to the settlement of any such claim shall be reimbursed by the Sending State.

4. Third party claims for any loss, damage or injury caused by Personnel of both Parties in the performance of their official duties shall be settled by the Receiving State, also on behalf of the Sending State, in accordance with the domestic law in force in the territory of the Receiving State. Costs related to the settlement of any such claim shall be distributed between the Parties on an equal basis.

## Article 8

*Medical and dental support*

1. The Personnel of the Sending State shall be medically and dentally fit prior to the entry into the territory of the Receiving State.

2. The Personnel of the Sending State shall, when available, be granted emergency medical and dental support in military medical facilities free of charge throughout their presence in the Receiving State in connection with this Agreement.

3. Other medical and dental support, including hospitalisation, shall be granted under the same conditions as those applicable to Personnel of the Receiving State.

## Article 9

*Settlement of disputes*

Any dispute between the Parties arising out of the interpretation, application or implementation of the provisions of this Agreement shall be settled amicably through consultation or negotiations between the Parties.

## Article 10

*Application for the Netherlands*

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

## Article 11

*Entry into force and termination*

1. This Agreement shall enter into force on the first day of the second month after each Party has notified the other in writing through the diplomatic channel of its compliance with the constitutional requirements necessary for the implementation thereof.

2. This Agreement shall remain in force until terminated in accordance with sub-Article (3).

3. This Agreement may be terminated by either Party giving six (6) months' written notice in advance through the diplomatic channel to the other Party of its intention to terminate it.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this Agreement in two originals in the English language.

DONE at Pretoria on this 8th day of June in this year 2007.

*For the Government of the Kingdom of the Netherlands*

G. Wolters

*For the Government of the Republic of South Africa*

M. G. P. Lekota

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D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de 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 eerste dag van de tweede maand nadat beide

Partijen elkaar via een diplomatieke notawisseling ervan in kennis hebben gesteld dat aan de grondwettelijk vereiste voorwaarden voor de uitvoering is voldaan.

Uitgegeven de *elfde* september 2007.

*De Minister van Buitenlandse Zaken,*

M. J. M. VERHAGEN