

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2008 Nr. 134

A. TITEL

*Briefwisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en de Republiek Somalië betreffende de steun van Nederlandse strijdkrachten bij de bescherming van humanitaire hulp voor Somalië tegen piraterij
Nairobi, 1 april 2008*

B. TEKST

De Engelse tekst van het in de brieven vervatte verdrag is geplaatst in *Trb.* 2008, 85.

Voor het aanvullende, in brieven vervatte verdrag met de Comoren, zie ook *Trb.* 2008, 85.

De Spaanse tekst van het in brieven vervatte verdrag van 24 april 2008, in aanvulling op bovenstaand verdrag, tussen het Koninkrijk der Nederlanden en de Republiek Panama is geplaatst in *Trb.* 2008, 97.

De Engelse tekst van het in brieven vervatte verdrag van 8 mei 2008, in aanvulling op bovenstaand verdrag, tussen het Koninkrijk der Nederlanden en de Republiek Somalië is geplaatst in *Trb.* 2008, 104.

De Engelse tekst van het in brieven vervatte verdrag van 30 mei 2008, in aanvulling op bovenstaand verdrag, tussen het Koninkrijk der Nederlanden en Sint Vincent en de Grenadines is geplaatst in *Trb.* 2008, 127.

Op 12 juni 2008 is te Amman, in aanvulling op bovenstaand verdrag, eveneens bij briefwisseling een verdrag totstandgekomen tussen het Koninkrijk der Nederlanden en het Hasjemitisch Koninkrijk Jordanië betreffende de steun van Nederlandse strijdkrachten bij de bescherming tegen piraterij van een schip onder Jordaanse vlag dat humanitaire hulp aan Somalië levert. De Engelse¹⁾ tekst van de brieven luidt als volgt:

¹⁾ De Arabische tekst is niet afgedrukt.

Nr. I

MINISTRY OF FOREIGN AFFAIRS OF THE HASHEMITE KING-
DOM IN JORDAN

Amman, 11 June 2008

Dear Ambassador,

Taking note of the joint press release issued on 10 July 2007 by the International Maritime Organization and the World Food Programme calling on concerted and co-ordinated international action to address the threat of piracy and armed robbery against ships in waters off the coast of Somalia amid growing concern about the perils it poses for i.a. the delivery of humanitarian assistance, as well as Resolution A.1002 of the International Maritime Organization dated 29th of November 2007.

Furthermore taking note of relevant United Nations Security Council resolutions, in particular resolution 1816 adopted on 2 June 2008, mandating all Member States to use all necessary means, in accordance with the resolution, to protect the delivery of humanitarian assistance in the territorial waters of Somalia for a period of six months and resolution 1772 (2007) adopted on 20 August 2007, both resolutions adopted under Chapter VII of the Charter of the United Nations in which the Security Council referring to the joint press release by the International Maritime Organisation and the World Food Programme stressed its concern at the upsurge in piracy off the Somali coast, and encouraged Member States whose naval vessels and military aircraft operate in international waters and airspace adjacent to the coast of Somalia to be vigilant to any incident of piracy therein and to take appropriate action to protect merchant shipping, in particular the transportation of humanitarian aid, against any such act, in line with relevant international law.

Noting that the World Food Programme (WFP) is a key humanitarian actor in Somalia, to where it sends 80% of its assistance by sea, the security of its vessels is of fundamental importance in this regard for the entire humanitarian community in Somalia.

Considering the persistent incidents of armed robbery committed in the territorial waters of Somalia and having responded positively to a request from the Government of the Republic of Somalia and the WFP that the Kingdom of the Netherlands lend its support for the protection of WFP-contracted ships bound for Somalia,

Considering that as part of the protection of the WFP contracted ships, Dutch forces with the agreement of the Flag state would be deployed on board the WFP contracted ship,

I have the honour therefore, speaking on behalf of my Government, of making the following proposal to you:

– The present provisions have been agreed in order to meet the needs of the Kingdom of the Netherlands in relation to the protection of World Food Programme-contracted ships in the territorial waters of Somalia, Kenya and Tanzania and their application is limited to the period of the presence of Dutch Forces deployed in this connection on the territory of the Republic of Somalia.

– For the protection of the ships of the Kingdom of Jordan, being the Flag State of the ships chartered by the World Food Programme, the Government of the Kingdom of Jordan, as Flag State:

a) in conjunction with the owners of the ships flying its flag, shall facilitate the embarkation of Dutch Forces on ships contracted by the World Food Programme;

b) in conjunction with the owners of the ships flying its flag, shall facilitate cooperation between the Dutch Forces, including those on board such ships, and the ship's crew;

c) shall authorise the Dutch Forces to take all necessary steps, including the proportionate use of force in accordance with international law. In this connection, the Dutch Forces shall assess the correct match between the means to be employed and the manner in which they are to be employed, at whatever level.

– The Government of the Hashemite Kingdom of Jordan, as Flag State, authorises the possession of weapons and munitions for security by the Dutch Forces present on board ships chartered by the World Food Programme and flying its flag.

– The Government of the Hashemite Kingdom of Jordan, as Flag State, grants to the Dutch Forces present on board its WFP-contracted ships for the purpose of their protection, personal inviolability and immunity from legal proceedings in its criminal, civil and administrative courts, in addition to immunity from execution.

– The Government of the Hashemite Kingdom of Jordan, as Flag State, would not bear financial responsibility for any prejudicial or harmful action to third parties caused or occasioned by the Dutch forces in the execution of their tasks.

– In the event of legal action instituted in connection with such prejudice, the Government of the Hashemite Kingdom of Jordan agrees, in a spirit of full cooperation between the parties, to stand in lieu of the Government of the Kingdom of the Netherlands in the proceeding. The Government of the Kingdom of the Netherlands shall pay any compensation due as redress for prejudice suffered by third parties as a result of actions committed by the Dutch forces in this deployment.

– The Government of the Hashemite Kingdom of Jordan, as Flag State, agrees that the Dutch Forces may choose to hand over either to the Jordanian authorities or to another state's authorities for criminal prosecution all individuals detained by the Dutch Forces and equipment

confiscated from individuals having committed acts of piracy or armed robbery or attempts hereof directed against or on board the ships of the Flag State.

– In case the Kingdom of the Netherlands should choose to hand over to the Flag State, the Hashemite Kingdom of Jordan, as Flag State, agrees to accept the transfer of these individuals and of confiscated equipment from the Dutch Forces.

– Should the Dutch Forces detain any individuals who have committed acts of piracy or armed robbery or attempts hereof directed against World Food Programme-contracted ships, they shall guard them and ensure their safety in accordance with the provisions of applicable international law until such time as they are handed over to the Kingdom of Jordan authorities or to another state's authorities for criminal prosecution by the state to which the individuals have been handed over to by the Dutch Forces.

– The Jordanian authorities shall take charge without delay of all individuals detained on board its ships and handed over by the Dutch Forces.

– Representatives of the Kingdom of the Netherlands and others empowered to represent the Kingdom of the Netherlands will have full access to any person transferred from the Dutch Forces to the Jordanian authorities while such persons are in custody.

– The Dutch Government will be notified by the Hashemite Kingdom of Jordan of any changes concerning the status of individuals transferred by the Dutch Forces to the competent authorities of Jordan.

– The Jordanian authorities will ensure that any person transferred to them by the Dutch Forces will not be transferred to the authority of another state, including detention in another state, without the prior agreement of the Dutch Government.

– The death of any member of the personnel of the Dutch Forces on board a ship of the Flag State shall be declared to the authorities of that State, which hereby agrees to hand over the body to the Dutch authorities without delay.

– Any dispute between the Government of the Hashemite Kingdom of Jordan, as Flag State, and the Government of the Kingdom of the Netherlands concerning the implementation or interpretation of the provisions hereof shall be settled exclusively by negotiation.

– The Government of the Hashemite Kingdom of Jordan, as Flag State, and the Government of the Kingdom of the Netherlands may terminate this agreement in writing, giving a short period of advance notice.

– Expiry of the present agreement shall not discharge the Government of the Hashemite Kingdom of Jordan, as Flag State, and the Government of the Kingdom of the Netherlands of obligations created during its implementation.

The provisions contained in this exchange of letters may be communicated to any third State that should so request from either of the parties.

I have the honour to inform you of the agreement of my Government to the provisions set out above. Given this, the present agreement shall be in force from the date hereof.

Please accept, your Excellency, the assurances of my highest consideration.

DR. SALAHEDDIN AL-BASHIR
Foreign Minister

*To H.E. Joanna M. van Vliet
Ambassador of the Kingdom of the Netherlands*

Nr. II

AMBASSADE VAN HET KONINKRIJK DER NEDERLANDEN

Amman, 12 June 2008

REF. 2008/063

Your Excellency,

I hereby acknowledge receipt of your letter of the 11th of June 2008, the text of which is as follows:

(Zoals in Nr. I)

I have the honour to inform you of the agreement of my Government to the provisions set out above. Given this, the present agreement shall be in force from the date of this reply.

Please accept, your Excellency, the assurances of my highest consideration.

JOHAN O. VERBOOM
Chargé d'Affaires
Embassy of the Kingdom of
the Netherlands

*To H.E. Minister Salah Bashir
Ministry of Foreign Affairs
of the Hashemite Kingdom in Jordan
Amman*

D. PARLEMENT

Zie *Trb.* 2008, 85, *Trb.* 2008, 97, *Trb.* 2008, 104 en *Trb.* 2008, 127.
Het in de brieven vervatte verdrag van 12 juni 2008 behoeft ingevolge artikel 7, onderdeel c, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

Zie *Trb.* 2008, 85, *Trb.* 2008, 97, *Trb.* 2008, 104 en *Trb.* 2008, 127.

De bepalingen van het in brieven vervatte verdrag met het Hasjemitisch Koninkrijk Jordanië zijn ingevolge het gestelde in de op één na laatste alinea van brief Nr. I en brief Nr. II in werking getreden op 12 juni 2008.

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

J. VERWIJZINGEN

Zie *Trb.* 2008, 85.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het in brieven vervatte verdrag met het Hasjemitisch

Koninkrijk Jordanië zal zijn bekendgemaakt in Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *derde* juli 2008.

De Minister van Buitenlandse Zaken,

M. J. M. VERHAGEN