

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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**JAARGANG 2010 Nr. 253**

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A. TITEL

*Verdrag inzake samenwerking bij de bestrijding van sluikhandel in  
verdovende middelen en psychotrope stoffen over zee en door de lucht  
in het Caribisch gebied;  
San José, 10 april 2003*

B. TEKST

De Engelse, de Franse en de Spaanse tekst van het Verdrag zijn geplaatst in *Trb.* 2003, 82. Zie voor een correctie *Trb.* 2004, 54.

C. VERTALING

Zie *Trb.* 2004, 54.

D. PARLEMENT

Artikel 1 van de Rijkswet van 20 februari 2010 (*Stb.* 2010, 167) luidt als volgt:

„Artikel 1

Het op 10 april 2003 te San José totstandgekomen Verdrag inzake samenwerking bij de bestrijding van sluikhandel in verdovende middelen en psychotrope stoffen over zee en door de lucht in het Caribisch gebied, waarvan de tekst is geplaatst in Tractatenblad 2003, 82 en de vertaling in het Nederlands in Tractatenblad 2004, 54, wordt goedgekeurd voor het gehele Koninkrijk.”.

Deze Rijkswet is gecontrasigneerd door de Minister van Defensie E. VAN MIDDELKOOP, de Minister van Buitenlandse Zaken M. J. M. VERHAGEN en de Minister van Justitie E. M. H. HIRSCH BALLIN.

Voor de behandeling in de Staten-Generaal zie Kamerstukken II 2007/2008, 2008/2009, 2009/2010, 31355 (R1848); Hand. II 2009/2010, blz. 4510; Kamerstukken I 2009/2010, 31355 (R1848); Hand. I 2009/2010, blz. 821.

E. PARTIJGEDEVENS

Zie *Trb.* 2003, 82.

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Belize	14-12-04	17-06-05	R	18-09-08		
Costa Rica	10-04-03	04-06-10	R	04-07-10		
Dominicaanse Republiek, de	10-04-03	07-06-07	R	18-09-08		
Frankrijk	10-04-03	23-01-06	R	18-09-08		
Guatemala	10-04-03	19-08-08	R	18-09-08		
Haiti	10-04-03					
Honduras	10-04-03					
<b>Nederlanden, het Koninkrijk der</b> – Nederland – Ned. Antillen – Aruba	10-04-03	29-07-10 29-07-10 29-07-10	R R R	28-08-10 28-08-10 28-08-10		
Nicaragua	10-04-03					
Verenigd Koninkrijk, het	15-07-05					
Verenigde Staten van Amerika, de	10-04-03	10-04-03	R	18-09-08		
* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrchtiging, aanvaarding, goedkeuring f kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend						

## **Verklaringen, voorbehouden en bezwaren**

Belize, 17 juni 2005

The Government of Belize declares that in accordance with Article 12 (2) of the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area Belize elects the procedure set forth in Article 12 (1)(a) in the said Agreement.

The Government of Belize declares that in accordance with Article 12 (5) of the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area Belize elects the procedure set forth in Article 12 (4)(a) in the said Agreement.

The Government of Belize declares that in accordance with Article 13 (7) of the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area Belize elects the procedure set forth in Article 13 (6)(a) in the said Agreement.

The Government of Belize declares that in accordance with Article 16 (2) of the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area vessels claiming the nationality of Belize located seaward of any State's territorial sea may only be boarded upon express written consent of the Government of Belize.

Frankrijk, 23 januari 2006

Pursuant to Article 36 (a) of the Agreement, the Government of the French Republic makes the following declarations:

1. pursuant to Article 12 (2) that it elects the procedure set forth in section 1a of that article;
2. pursuant to Article 12 (5) that it elects the procedure set forth in section 4a of that article;
3. pursuant to Article 13 (7) that it elects the procedure set forth in section 6a of that article;
4. pursuant to Article 16 (1) that it elects the procedure set forth in section 3 of that article;
5. with regard to article 15 that it intends to extend the application of this Agreement to all of its internal waters directly adjacent to its territorial waters.

Designation of the Authorities:

The Government of the French Republic designates:

- as competent national authority, coordinator and national point of contact, pursuant to articles 1 (b), 7(2), 9 (5), 18 and 19: the Prefect of Martinique and, for French Guiana, the Prefect of French Guiana;
- as entities responsible for carrying out law enforcement functions pursuant to article 1 (c): the Navy, the National Gendarmerie General

Directorate, the General Directorate of Customs and Excise and the Directorate for Sea Affairs and Transport.

Guatemala, 20 juni 2003

1. The Republic of Guatemala makes the following declaration ad referendum, that is, subject to the prior approval of the Congress of the Republic and ratification by the Executive Body of Guatemala's consent [to be bound by the Agreement].
2. The Republic of Guatemala declares that it is in its interest, for the purposes of the proper implementation of the Agreement, that the criteria should be clarified by which vessels and aircraft should be considered suspect.
3. In signing article 30 of the Agreement, the Republic of Guatemala states categorically that none of the Agreement's provisions will prejudice Guatemala's position under international law, including the law of the sea; nor affect the claims to territory or maritime boundaries that the Republic of Guatemala has made, is making or may make in the future on other States.
4. With respect to article 4, paragraph 1, article 7, paragraph 1d, article 8, paragraph 2, article 9, article 18 and article 20, paragraph 2, the Republic of Guatemala makes the reservation that it will comply with their provisions in so far as they are not contrary to the provisions of the Political Constitution of the Republic or to the provisions of its domestic public law.
5. With respect to article 12 of the Agreement, the Republic of Guatemala elects the procedures set forth in paragraphs 1a and 4a of this article.
6. With respect to article 13 of the Agreement, the Republic of Guatemala elects the procedure set forth in paragraph 6a of this article.
7. With respect to article 16 of the Agreement, the Republic of Guatemala elects not to grant advance authorisation to board a vessel as provided in paragraphs 2 and 3 of this article.

Guatemala, 19 augustus 2008

Declarations:

In accordance with article 38 and with article 42, paragraph 3 of the Agreement, the Government of the Republic of Guatemala makes the following declarations:

1. To ensure the correct implementation of the Agreement, it declares its support for clarifying the exact criteria for considering a vessel or aircraft suspect.
2. With regard to article 30 of the Agreement, the Republic of Guatemala declares categorically in signing the Agreement that none of its provisions will prejudice its position under international law, including the law of the sea, or will affect the territorial or maritime claims that the Republic of Guatemala has made, is making or may make in future in relation to other States.

With regard to article 12 of the Agreement, the Republic of Guatemala elects the procedures set forth in paragraphs 1a and 4a of this article.

With regard to article 13 of the Agreement, the Republic of Guatemala elects the procedure set forth in paragraph 6a of this article.

With regard to article 16 of the Agreement, the Republic of Guatemala notifies the Depositary that it does not grant advance authorisation to board any vessel under paragraphs 2 and 3 of this article.

Reservations:

With regard to article 4, paragraph 1, article 7, paragraph 1d, article 8, paragraph 2, article 9, article 18 and article 20, paragraph 2, the Republic of Guatemala makes the reservation that it will comply with their provisions in so far as they do not violate the provisions of the Political Constitution of the Republic or of its domestic public law.

Designation of authorities:

In accordance with article 42 of the Agreement, the Republic of Guatemala designates the Ministry of National Defence as its competent national authority and law enforcement authority, which will have the task of handling requests under the Agreement for verification of nationality and for authorisation and will be responsible for carrying out maritime and aeronautical law enforcement tasks in accordance with the Agreement as applicable under Guatemalan law, as well as any additional tasks described in article 1, points b and c, article 6, article 7, article 9, paragraph 5, article 12 and article 13 of the Agreement.

Honduras, 20 juni 2003

The Republic of Honduras, on the basis of article 38 and in the spirit of article 30 of the present Agreement, declares as follows: 'As the case *Nicaragua v. Honduras* concerning the conflict over the maritime boundary between Nicaragua and Honduras in the Caribbean Sea is pending before the International Court of Justice, none of the provisions of this Agreement will affect the claims or positions put forward by the Republic of Honduras in that case with regard to the maritime boundary, or constitute an acknowledgment of a right of any other country that would affect those claims or positions. Except within the limits of the previous sentence, this declaration does not exclude or modify the legal effect of the provisions of this Agreement in their application to Honduras.'

**Nederlanden, het Koninkrijk der,** 29 juli 2010

1. Pursuant to article 1(b) of the Agreement and in compliance with the instruction contained in article 17, paragraph 7 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed in Vienna on 20 December 1988, for the purposes of the Agreement the competent national authority designated to determine, pursuant to article 17, paragraph 7 of the latter Convention, whether a vessel that is flying its flag is entitled to do so, is the International Police Cooperation Department of the Dutch Police Services

Agency, P.O. Box 3016, 2700 KX Zoetermeer, the Netherlands (tel. +31 (0)79 345 9898; fax +31 (0)79 345 8800).

2. Pursuant to article 1(c) of the Agreement, the designated law enforcement authorities of the Kingdom of the Netherlands are the Public Prosecution Services of the Netherlands, the Netherlands Antilles and Aruba respectively.

3. The law enforcement officials of the Kingdom of the Netherlands designated pursuant to article 1(d) of the Agreement are the uniformed and other clearly identifiable officials of the agencies tasked by the law enforcement authority with implementing the Agreement.

4. Pursuant to article 9, paragraph 5 of the Agreement, the Director of the Coast Guard for the Netherlands Antilles and Aruba is responsible for designating embarked law enforcement officials.

5. Pursuant to article 12, paragraph 2 of the Agreement, the Kingdom of the Netherlands elects the procedure set forth in paragraph 1(a) of this article. This means that a law enforcement vessel of another Party to the Agreement may – while awaiting an expeditious response from the Kingdom of the Netherlands and provided advance authorisation has been given by the competent law enforcement authorities – follow a suspect vessel into the territorial waters of the Netherlands Antilles or Aruba and take the other measures described in article 12, paragraph 1 of the Agreement. The Kingdom of the Netherlands may agree exceptions to this procedure with other Parties.

6. Pursuant to article 12, paragraph 5 of the Agreement, the Kingdom of the Netherlands elects the procedure set out in paragraph 4(a) of this article. This means that a law enforcement vessel of a Party may follow a suspect aircraft into the territorial waters of the Netherlands Antilles or Aruba in order to maintain contact with the suspect aircraft, provided advance authorisation has been given by the competent law enforcement authorities. The Kingdom of the Netherlands may agree exceptions to this procedure with other Parties.

7. Pursuant to article 13, paragraph 7 of the Agreement, the Kingdom of the Netherlands elects the procedure set out in paragraph 6(a) of this article. This means that the Kingdom of the Netherlands – in the framework of law enforcement activities or activities in support thereof – may authorise a Party's law enforcement aircraft to enter the airspace of the Netherlands Antilles or of Aruba when engaged in law enforcement operations or activities in support of law enforcement operations, and to relay to a suspect aircraft the orders described in article 13, paragraph 6, provided advance authorisation has been given by the law enforcement authorities and/or aviation authorities of the country concerned (i.e. the Netherlands Antilles or Aruba). The Kingdom of the Netherlands may agree exceptions to this procedure with other Parties. The Kingdom of the Netherlands understands article 13, paragraph 6 to mean that a Party – with due consideration for the laws of the countries of the Kingdom of the Netherlands as well as for those of the requested Party itself – may issue instructions to suspect aircraft provided advance authorisation

tion has been given by the law enforcement authorities and/or aviation authorities of the country concerned (i.e. the Netherlands Antilles or Aruba).

8. Pursuant to article 16, paragraph 3 of the Agreement, by accepting this Agreement the Kingdom of the Netherlands grants the Parties authorisation to board suspect vessels flying the flag of the Kingdom of the Netherlands or claiming its nationality and to search the suspect vessel and its cargo and question the persons on board, in order to determine whether the vessel is engaged in illicit trafficking of narcotic drugs or psychotropic substances, if the Kingdom of the Netherlands does not respond four hours following receipt of an oral request to verify nationality, or if it is not possible to either confirm or deny nationality within this period. The Kingdom of the Netherlands may agree exceptions to this procedure with other Parties.

9. The Kingdom of the Netherlands understands article 16, paragraph 4 to mean that if it has been requested by a Party to verify the nationality of a suspect vessel, it may authorise the Party concerned to take all necessary actions to prevent the escape of the suspect vessel, once it has been established that the vessel in question has the nationality of the Kingdom of the Netherlands.

10. Pursuant to articles 7 and 18 of the Agreement, the Director of the Coast Guard for the Netherlands Antilles and Aruba is the designated central point of contact for the Netherlands, the Netherlands Antilles and Aruba with respect to receiving, processing and responding to requests under this Agreement.

11. Pursuant to article 19, paragraph 1 of the Agreement, the Director of the Coast Guard of the Netherlands Antilles and Aruba is the designated coordinator of the Kingdom of the Netherlands' organisation of and input into regional and sub-regional maritime law enforcement cooperation programmes.

Nicaragua, 20 juni 2003

Declaration:

1. None of the clauses of the present Agreement may be interpreted as affecting the rights of Nicaragua in its maritime or coastal zones or in any other part of its territory, or as implying in any way a total or partial renunciation of its claims on territories and maritime and insular zones.

2. The Republic of Nicaragua makes no total or partial renunciation of its sovereignty, jurisdiction or rights to the territory, islands, keys, adjoining banks, inland waters, territorial sea, contiguous zone, continental shelf, exclusive economic zone and airspace that belong to it by virtue of its domestic legislation and of international law.

Reservation:

As the Government of the Republic of Nicaragua is bound by the provisions of the Political Constitution of the Republic and by the laws in force on this subject, its police powers cannot be delegated, so that arti-

cle 20, paragraphs 1 and 2 of the present Agreement is inapplicable. Consequently, it is not possible to grant to foreign law enforcement officials like powers to those of Nicaragua's domestic law enforcement officials.

Verenigde Staten van Amerika, de, 3 juni 2003

[...] pursuant to Article 36 (a) of the Agreement, the United States signs the Agreement without reservation as to ratification, acceptance or approval, subject to the following declarations:

1. Pursuant to paragraph (b) of Article 1 of the Agreement, and without prejudice to any designation made pursuant to paragraph 7 of Article 17 of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the "competent national authority" of the United States for purposes of the implementation of this Agreement is the Commandant, United States Coast Guard.

2. Pursuant to paragraph (c) of Article 1 of the Agreement, the "law enforcement authorities" for the United States for purposes of this Agreement are the Department of Homeland Security and the Department of Justice.

3. Pursuant to paragraph (d) of Article 1 of the Agreement, the law enforcement officials for the United States for purposes of this Agreement are uniformed and other clearly identifiable members of the law enforcement authorities of the United States and who may be assisted, on occasion, by uniformed members of the Department of Defense.

4. Pursuant to paragraph 5 of Article 9 of the Agreement, the Commander, Seventh Coast Guard District, is the authority responsible for the designation of embarked law enforcement officials.

5. Pursuant to paragraph 2 of Article 12 of the Agreement, the United States elects the procedures set forth in paragraph 1(a) of Article 12. Accordingly, the United States understands that a law enforcement vessel of a Party may follow a suspect vessel into the waters of the United States in the Caribbean area and take actions to prevent the escape of the vessel, board the vessel and secure the vessel and persons on board awaiting an expeditious response from the United States once the Party has received authorization from the Commander, Seventh Coast Guard District.

6. Pursuant to paragraph 5 of Article 12 of the Agreement, the United States elects the procedures set forth in paragraph 4(a) of Article 12. Accordingly, the United States understands that a law enforcement vessel of a Party may follow a suspect aircraft into the waters of the United States in the Caribbean area in order to maintain contact with the suspect aircraft once the Party has received authorization from the Commander, Seventh Coast Guard District.

7. Pursuant to paragraph 7 of Article 13 of the Agreement, the United States elects the procedures set forth in paragraph 6(a) of Article 13. Accordingly, the United States understands that it may authorize aircraft of a Party, when engaged in law enforcement operations or activities in



support of law enforcement operations, to fly over United States territory and waters in the Caribbean area when authorization has been granted by the Commander, Seventh Coast Guard District. The United States understands further that, subject to the laws of the United States and of the requested Party, the requested Party may, upon the request of the Commander, Seventh Coast Guard District, relay to suspect aircraft orders to comply with the instructions and directions from air traffic control and law enforcement authorities of the United States.

8. Pursuant to paragraph 1 of Article 16 of the Agreement, the United States elects the procedures set forth in paragraph 3 of Article 16. Accordingly, the United States understands that Parties shall be deemed to be granted authorization to board a suspect vessel located seaward of the territorial sea of any State that flies its flag or claims its nationality and to search the suspect vessel, its cargo and question the persons found on board in order to determine if the vessel is engaged in illicit traffic, if there is no response or the United States can neither confirm or deny nationality within four (4) hours following receipt of an oral request pursuant to Article 6 of the Agreement.

9. Pursuant to Articles 7 and 18 of the Agreement, the single point of contact for the United States with the capability to receive, process and respond to requests and reports at any time is the Commander, Seventh Coast Guard District, Miami, Florida Command Center: telephone (305) 415-6800; facsimile (305) 415-6809; e-mail: d7commandcenter2@esumiami.uscg.mil.

10. Pursuant to paragraph 1 of Article 19 of the Agreement, the United States designates Commander, Joint Interagency Task Force East as the United States coordinator to organize its participation and to identify the vessels, aircraft and law enforcement officials involved in any regional and sub-regional maritime law enforcement co-operation and coordination programs among the law enforcement authorities of the Parties.

11. Pursuant to paragraph 1 of Article 25 of the Agreement, the United States has established an internet web page, <http://www.uscg.mil/hq/g-o/g-opl/mle/drugs.htm>, to keep Parties fully informed of its applicable laws and procedures, particularly those pertaining to use of force.

12. With reference to paragraph 2 of Article 31 of the Agreement, which provides that nothing in the Agreement shall alter or affect in any way the rights and obligations of a Party which arise from agreements in force between it and the United States on the same subject, it is the understanding of the United States that, in any given operation to suppress illicit traffic, the Parties engaged in the operation may mutually agree to proceed under provisions of both this Agreement and other applicable agreements in force between it and the United States as may be necessary to cooperate to the fullest extent possible in combating illicit maritime and air traffic. In order to ensure clarity and alignment of expectations, the United States understands that a Party with whom the United States also has a bilateral agreement in force on the same sub-

ject as this Agreement should specify under which agreement it desires to proceed at the time of making any request to the United States that would be potentially actionable under both this Agreement and the applicable bilateral agreement. The United States understands that such specification is made without prejudice to any subsequent request in the same or future operation. The United States of America declares that it shall specify under which agreement it desires to proceed at the time of making any request to a Party with whom the United States also has an applicable bilateral agreement in force on the same subject as this Agreement.

13. With reference to paragraph 2 of Article 33 of the Agreement, the United States understands the term “consensus” means adoption of a decision without voting and without the expression of any stated objection.

14. It is the view of the United States that, although paragraph 1 of Article 10 of the Agreement provides that boardings and searches pursuant to the Agreement shall be carried out only by teams of authorized law enforcement officials from law enforcement vessels, paragraph 2 of Article 10 makes clear that such boarding and search teams may also operate from law enforcement aircraft of any of the Parties, and from law enforcement vessels and law enforcement aircraft of other States as agreed among the Parties.

15. The United States understands that completion of a registry check by the claimed flag State is not a prerequisite for the claimed flag State to grant permission to take appropriate actions based on the claim of nationality made by a vessel, whether verbally, by flying a flag, presentation of a document, or other external indicia of nationality. While granting permission to board and search based on provisional or presumptive flag State authority provides a useful means for expediting the authorization process, it does not prevent the boarding State from making the determination, upon discovery of applicable conditions, that the vessel is assimilated under international law to a ship without nationality. Accordingly, the United States understands that paragraph 3 of Article 16 of the Agreement permits the boarding and search of a suspect vessel if the claimed flag State reports that it can neither confirm nor deny nationality within four hours following receipt of an oral request pursuant to Article 6. Although paragraph 5 of Article 16 of the Agreement addresses the effect of such a response on a request for boarding and search, the United States notes that the Agreement is silent on the effect of such a response with respect to the exercise of jurisdiction following the discovery of evidence of illicit traffic, and understands that the exercise of jurisdiction over such a vessel should be predicated on an unequivocal confirmation or refutation of nationality by the claimed flag State. Consequently, the United States of America declares that if a claimed flag State does not affirmatively and unequivocally assert that the vessel is of its nationality upon receiving a report on the results of enforcement action pursuant to paragraph 1 of Article 26, the United States reserves

the right to assimilate the vessel to a ship without nationality and subject the vessel, cargo, and persons on board to the exercise of the jurisdiction of the United States.

#### G. INWERKINGTREDING

De bepalingen van het Verdrag zijn ingevolge artikel 36, tweede lid, op 18 september 2008 in werking getreden.

De bepalingen van het Verdrag zijn ingevolge artikel 36, derde lid, voor het Koninkrijk der Nederlanden op 28 augustus 2010 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag voor het gehele Koninkrijk.

#### J. VERWIJZINGEN

Zie *Trb.* 2003, 82.

#### **Overige verwijzingen**

Titel : Verdrag van de Verenigde Naties inzake het recht van de zee;  
Montego-Bay, 10 december 1982

Laatste *Trb.* : *Trb.* 2009, 77

Titel : Handvest van de Verenigde Naties;  
San Francisco, 26 juni 1945

Laatste *Trb.* : *Trb.* 2010, 163

Uitgegeven de *zevende* oktober 2010.

*De Minister van Buitenlandse Zaken,*

M. J. M. VERHAGEN