

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2020 Nr. 5

A. TITEL

Overeenkomst tot economische samenwerking tussen de Regeringen van het Koninkrijk der Nederlanden en de Verenigde Staten van Amerika, met Bijlage en briefwisseling; 's-Gravenhage, 2 juli 1948

Voor een overzicht van de verdragsgegevens, zie verdragsnummers 007140, 007912 en 013703 in de Verdragenbank.

B. TEKST

Op 28 september 1987 respectievelijk 8 november 1988 zijn te 's-Gravenhage tussen de Nederlandse en Amerikaanse Regering nota's gewisseld ter aanvulling van de briefwisseling van 7 oktober 1952 houdende uitvoering van artikel III van de Overeenkomst. De Engelse tekst van de notawisseling luidt als volgt:

Nr. I

EMBASSY OF THE UNITED STATES OF AMERICA

The Hague, September 10, 1987

No. 84

The Embassy of the United States presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to refer to conversations which have taken place between representatives of the two Governments and of the Overseas Private Investment Corporation (OPIC), on the subject of a simplified procedure regarding the issuance of political risk insurance by OPIC to US business enterprises undertaking activities in Aruba and the Netherlands Antilles.

With respect to activities in Aruba, it is the understanding of the Government of the United States that the Government of the Kingdom of the Netherlands agrees the following simplified procedure governing the approval of activities which meet the criteria of eligibility for OPIC coverage established by U.S. legislation and OPIC's board of directors:

- OPIC will request approval for each individual activity by submitting the usual information on the project in question simultaneously to the Ministry of Foreign Affairs in The Hague and to the Government of Aruba in Oranjestad;
- If, within four weeks of the receipt of such request, the Ministry of Foreign Affairs has not informed the U.S. Embassy in The Hague that an objection exists to the project, approval will be considered granted;
- All other matters regarding the project may be dealt with directly between OPIC and the Government of Aruba;
- The efficacy of this simplified procedure will be evaluated by the competent authorities in the Kingdom within a year of the date of this Note. Should they conclude that the simplified procedure does not serve to further the economic development of Aruba, the Kingdom may propose additional modifications to the approval procedure.

The Government of the United States further understands that the Government of the Netherlands cannot accept that its approval from time to time, whether explicit or implicit, of an activity to be covered by OPIC, should entail liability for possible damages under the Agreement for Economic Cooperation between the two

States of July 2, 1948, as modified and amended, in excess of the liability incumbent on the Netherlands by virtue of other rules of international law which apply between the two States.

It is the understanding of the Government of the United States that in the event of a disagreement regarding claims stemming from the issuance of coverage, which disagreement presents a question of international law that cannot be resolved through negotiations between the two governments, the United States Government will arbitrate its differences with the Netherlands Government before any arbitral tribunal mutually agreed upon or, in the event of a failure to agree, before the International Court of Justice.

With respect to activities in the Netherlands Antilles to be insured by OPIC, it is the understanding of the Government of the United States that the existing approval procedure as not to be changed, pending further study of the matter by the competent authorities in the Kingdom of the Netherlands.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Ministry of Foreign Affairs of the Kingdom of the Netherlands

Nr. II

WESTERN HEMISPHERE DEPARTEMENT

The Hague, September 28, 1987

No. 236220

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to confirm the receipt of the Embassy's Note of September 10th 1987, No. 84, which reads as follows:

(Zoals in Nr. I)

The Ministry has the honour to inform the Embassy that the points of understanding as laid down in the abovequoted Note correctly reflect the position of the Government of the Kingdom of the Netherlands.

Embassy of the United States of America

Nr. III

WESTERN HEMISPHERE DEPARTMENT

The Hague, November 8, 1988

No. 6-7/242744

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to its Note No. 236220 of September 28, 1987, and to conversations which have taken place between representatives of the two Governments and of the Overseas Private Investment Corporation (OPIC), on the subject of a simplified procedure regarding the issuance of political risk insurance by OPIC to US business enterprises undertaking activities in the Netherlands Antilles and Aruba.

The Ministry takes pleasure in informing the Embassy that the competent authorities in the Kingdom of The Netherlands are now agreed that the simplified procedure described in the points of understanding laid down in the abovementioned Note with regard to Aruba, shall henceforth apply also to the issuance of political risk insurance by OPIC for US business enterprises undertaking activities in the Netherlands Antilles, in the same manner and under the same conditions as for Aruba (including the possible re-evaluation of this procedure after a period of one year), to wit:

- OPIC will request approval for each individual activity by submitting the usual information on the project in question simultaneously to the Ministry of Foreign Affairs in The Hague and to the Government of the Netherlands Antilles in Willemstad;
- If, within four weeks of the receipt of such request, the Ministry of Foreign Affairs has not informed the US Embassy in The Hague that an objection exists to the project, approval will be considered granted;

- All other matters regarding the project may be dealt with directly between OPIC and the Government of the Netherlands Antilles;
- The efficacy of this simplified procedure will be evaluated by the competent authorities in the Kingdom within a year of the date of this Note. Should they conclude that the simplified procedure does not serve to further the economic development of the Netherlands Antilles, the Kingdom may propose additional modifications to the approval procedure.

It is to be understood that the Government of the Netherlands cannot accept that its approval from time to time, whether explicit or implicit, of an activity to be covered by OPIC, should entail liability for possible damages under the Agreement for Economic Cooperation between the two States of July 2, 1948, as modified and amended, in excess of the liability incumbent on the Netherlands by virtue of other rules of international law which apply between the two States.

It is also to be understood that in the event of a disagreement regarding claims stemming from the issuance of coverage, which disagreement presents a question of international law that cannot be resolved through negotiations between the two governments, the Netherlands Government and the United States Government will arbitrate their differences before any arbitral tribunal mutually agreed upon or, in the event of a failure to agree, before the International Court of Justice.

If, in the future, any improvements should be made in the simplified procedure already applicable to Aruba, the Ministry reserves its right to request that such improvements be made also in the procedure for the Netherlands Antilles, and vice-versa.

Embassy of the United States of America

G. INWERKINGTREDING

De bepalingen van de nota's van 10 september 1987 en 28 september 1987 zijn op 28 september 1987 in werking getreden.

De bepalingen van de nota van 8 november 1988 zijn op 8 november 1988 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, gelden de bepalingen van het in de nota's vervatte verdrag, evenals de Overeenkomst met Bijlage en briefwisseling, voor het gehele Koninkrijk.

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 van 28 september 1987 respectievelijk 8 november 1988 zullen zijn bekendgemaakt in het gehele Koninkrijk op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *drieëntwintigste* januari 2020.

De Minister van Buitenlandse Zaken,

S.A. BLOK