

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2021 Nr. 128

A. TITEL

Briefwisseling tussen de Regering van het Koninkrijk der Nederlanden en de President van het „Iran-United States Claims Tribunal“ inzake het toekennen van voorrechten en immuniteiten aan het Tribunaal; 's-Gravenhage, 6 en 24 september 1990

Voor een overzicht van de verdragsgegevens, zie verdragsnummers 004282, 010962, 011412 en 002233 in de Verdragenbank.

B. TEKST

Bij notawisseling tussen het Koninkrijk der Nederlanden en het „Iran-United States Claims Tribunal“ is op 1 oktober 2021 te 's-Gravenhage een verdrag tot stand gekomen tot wijziging van het onderhavige verdrag. De tekst van dit in nota's vervatte verdrag luidt als volgt:

Nr. I

MINISTRY OF FOREIGN AFFAIRS
TREATIES DIVISION

The Hague, 1 October 2021

MINBUZA-2021.828418

The Ministry of Foreign Affairs of the Kingdom of the Netherlands (hereinafter: the Ministry) presents its compliments to the Iran-United States Claims Tribunal (hereinafter: the Tribunal) and has the honour to refer to the Exchange of Letters containing an Agreement between the Kingdom of the Netherlands and the Iran-United States Claims Tribunal concerning the granting of privileges and immunities to the Tribunal, concluded at The Hague on 6 and 24 September 1990, as amended by the Exchange of Notes of 20 April 2004 (hereinafter "the 1990 Agreement"). The Ministry has the honour to propose that the 1990 Agreement be amended as follows:

1. A new Article 6A shall be inserted after Article 6 of the 1990 Agreement:

"Article 6A

1. Within the scope of its official activities, the Tribunal, its assets, income and other property shall be exempt from all direct taxes, whether levied by national, provincial or local authorities.

2. Within the scope of its official activities, the Tribunal shall be exempt from:

- a. import and export taxes and duties (*belastingen bij invoer en uitvoer*);
- b. motor vehicle tax (*motorrijtuigenbelasting, "MRB"*);
- c. tax on passenger motor vehicles and motorcycles (*belasting van personenauto's en motorrijwielen, "BPM"*);
- d. value added tax (*omzetbelasting, "BTW"*) paid on goods and services supplied on a recurring basis or involving considerable expenditure;
- e. excise duties (*accijnzen*) included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels;
- f. real property transfer tax (*overdrachtsbelasting*);

- g. insurance tax (*assurantiebelasting*);
- h. energy tax (*regulerende energiebelasting, "REB"*);
- i. tax on mains water (*belasting op leidingwater, "BOL"*);
- j. any other taxes and duties of a substantially similar character as the taxes provided for in this paragraph, levied in the Netherlands subsequent to the date of signature of this Agreement.

3. The exemptions provided for in paragraph 2, subparagraphs d), e), f), g), h), i), and j) of this Article may be granted by way of a refund. These exemptions shall be applied in accordance with the formal requirements of the Netherlands. These requirements, however, shall not affect the general principles laid down in paragraph 2 of this Article.

4. Goods acquired or imported under the terms set out in paragraph 2 of this Article shall not be sold, let out, given away or otherwise disposed of in the Netherlands, except in accordance with conditions agreed upon with the Netherlands.

5. The Tribunal shall not claim exemption from taxes which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized."

2. New paragraphs 5 and 6 shall be added to Article 9 of the 1990 Agreement:

"5. A member of the Tribunal shall enjoy immunity from seizure and inspection of official baggage.

6. A member of the Tribunal shall enjoy exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the Netherlands. An inspection in such a case shall be conducted in the presence of the member of the Tribunal concerned."

3. A new Article 11A shall be inserted after Article 11 of the 1990 Agreement:

"Article 11A

1. Provided that they are not nationals or permanent residents of the Kingdom of the Netherlands, the members of the Tribunal, the Secretary-General, and the other staff-members of the Tribunal shall enjoy the following privileges, immunities, exemptions and facilities as are necessary for the independent performance of their functions:

- a. together with members of their family forming part of the household, exemption from immigration restrictions and alien registration;
- b. exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Tribunal;
- c. the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank of diplomatic missions established in the Netherlands;
- d. together with members of their family forming part of the household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention; and
- e. the right to import free of duties and taxes, their furniture and effects at the time of first taking up their post in the Netherlands, and to re-export their furniture and effects free of duties and taxes to their country of destination upon separation from the Tribunal. However, no exemption shall be accorded in respect of charges levied for specific services rendered.

2. In addition to the privileges listed in paragraph 1 of this Article and provided that they are not nationals or permanent residents of the Kingdom of the Netherlands, the members of the Tribunal and the Secretary-General and the family members forming part of their household, shall be accorded the same privileges as are accorded by the Kingdom of the Netherlands to heads of the diplomatic missions in accordance with the Vienna Convention on Diplomatic Relations, unless otherwise specified in this Agreement.

3. In addition to the privileges listed in paragraph 1 of this Article and provided that they are not nationals or permanent residents of the Kingdom of the Netherlands, the other staff-members of the Tribunal in staff category 10 and staff-members of the Tribunal in staff category 9 together with the family members forming part of their household, shall be accorded the same privileges as are accorded by the Kingdom of the Netherlands to diplomatic agents of the diplomatic missions in accordance with the Vienna Convention on Diplomatic Relations, unless otherwise specified in this Agreement.

4. In addition to the privileges listed in paragraph 1 of this Article and provided that they are not nationals or permanent residents of the Kingdom of the Netherlands, staff-members of the Tribunal in staff categories lower than 9 together with the family members forming part of their household, shall be accorded the same privileges as are accorded by the Kingdom of the Netherlands to the technical and administrative staff of the diplomatic missions in accordance with the Vienna Convention on Diplomatic Relations, unless otherwise specified in this Agreement.

5. Notwithstanding the provision of Article 7 of the Agreement, the members of the Tribunal, the Secretary-General, and the other staff-members who are nationals or permanent residents of the Kingdom of the Netherlands shall enjoy within the Kingdom of the Netherlands only the following privileges, immunities and facilities for acts performed in his or her official capacity:
- a. immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Tribunal;
 - b. exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Tribunal;
 - c. for the purpose of their communications with the Tribunal the right to receive and send papers in whatever form; and
 - d. the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host State."
4. Article 20, paragraph 3, of the 1990 Agreement:
- A. shall cease to be in force upon the entry into force of this Exchange of Notes; and
 - B. shall be replaced from that date by the following:
"3. The members of the family forming part of the household of the persons referred to in paragraph 1 and 2 of this Article shall be subject to the social security legislation of the Netherlands."
5. A new Article 21 shall be inserted after Article 20 of the 1990 Agreement:

"Article 21

1. All differences arising out of the interpretation or application of this Agreement or supplementary arrangements or agreements between the Parties shall be settled by consultation, negotiation or other agreed mode of settlement.
2. If the difference is not settled in accordance with paragraph 1 of this Article within three months following a written request by one of the Parties to the difference, it shall, at the request of either Party, be referred to a Tribunal of three arbitrators. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairperson of the Tribunal. If, within thirty days of the request for arbitration, a Party has not appointed an arbitrator, or if, within fifteen (15) days of the appointment of two arbitrators, the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint the arbitrator referred to. The Tribunal shall determine its own procedures, provided that any two arbitrators shall constitute a quorum for all purposes, and all decisions shall require the agreement of any two arbitrators. The expenses of the Tribunal shall be borne by the Parties as assessed by the Tribunal. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding on the Parties."

If this proposal is acceptable to the Tribunal, the Ministry proposes that this Note and the Tribunal's affirmative Note in reply to it shall together constitute an Agreement between the Kingdom of the Netherlands and the Iran-United States Claims Tribunal, amending the Exchange of Letters, as concluded at The Hague on 6 and 24 September 1990 and amended by the Exchange of Notes of 20 April 2004. The Agreement shall enter into force on the date of the Tribunal's Note in reply and shall not have retroactive effect.

Upon the entry into force of this Agreement, the Exchange of Letters between the Minister for Foreign Affairs of the Kingdom of the Netherlands and the President of the Iran-United States Claims Tribunal concerning the Fiscal and Customs Privileges of the Tribunal, concluded at The Hague on 4 and 14 March 1988, shall cease to be in force.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Iran-United States Claims Tribunal the assurances of its highest consideration.

*To the Iran-United States Claims Tribunal
at The Hague*

Nr. II

THE IRAN-UNITED STATES CLAIMS TRIBUNAL

The Hague, 1 October 2021

PR/N/P/2021/07

The Iran-United States Claims Tribunal presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to acknowledge receipt of the Ministry's Note MINBUZA-2021.828418 of 1 October 2021, which reads as follows:

(Zoals in Nr. I)

In reply, the Iran-United States Claims Tribunal has the honour to inform the Ministry that the proposals set out in the Ministry's Note are acceptable to the Iran-United States Claims Tribunal and therefore, to confirm that the Ministry's Note and this Note in reply shall constitute an Agreement between the Iran-United States Claims Tribunal and the Kingdom of the Netherlands, amending the Exchange of Letters, as concluded at The Hague on 6 and 24 September 1990 and amended by the Exchange of Notes of 20 April 2004. The Agreement shall enter into force on the date of this affirmative Note in reply.

The Iran-United States Claims Tribunal also confirms that upon the entry into force of this Agreement, the Exchange of Letters between the President of the Iran-United States Claims Tribunal and the Minister for Foreign Affairs of the Kingdom of the Netherlands concerning the Fiscal and Customs Privileges of the Tribunal, concluded at The Hague on 4 and 14 March 1988, shall cease to be in force.

The Iran-United States Claims Tribunal avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Kingdom of the Netherlands the assurances of its highest consideration.

*To the Ministry of Foreign Affairs of the Kingdom of the Netherlands
at The Hague*

D. PARLEMENT

Het in de nota's vervatte verdrag behoeft ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen juncto artikel 3 van de Wet van 24 december 1947 houdende goedkeuring van het Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties (*Stb.* H 452) niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

De bepalingen van het in de nota's vervatte verdrag zijn ingevolge het gestelde in de op twee na laatste alinea van de nota's Nr. I en II op 1 oktober 2021 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het in de nota's vervatte verdrag, evenals het oorspronkelijke verdrag, voor Nederland (het Europese deel).

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 zal zijn bekendgemaakt in Nederland (het Europese deel) op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *achtste* oktober 2021.

De Minister van Buitenlandse Zaken,

H.P.M. KNAPEN