

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2021 Nr. 46

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## A. TITEL

*Verdrag inzake de zetel van het Permanente Hof van Arbitrage;  
's-Gravenhage, 30 maart 1999*

**Voor een overzicht van de verdragsgegevens, zie verdragsnummer 009154 in de Verdragenbank.**

## E. PARTIJGEGEVENS

In nota's van 11 en 18 maart 2021 hebben het Permanente Hof van Arbitrage en het Koninkrijk der Nederlanden een interpretatieve verklaring inzake artikel 4 van het Verdrag vastgelegd. De Engelse tekst van deze nota's luidt als volgt:

### **Nr. I**

#### PERMANENT COURT OF ARBITRATION

The Hague, 11 March 2021

BI 327305

The International Bureau of the Permanent Court of Arbitration ("PCA") presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands ("Netherlands") and has the honor to set forth its understanding with respect to the scope and meaning of the Netherlands' obligations under Article 4 of the Agreement concerning the Headquarters of the Permanent Court of Arbitration of 30 March 1999 ("Headquarters Agreement"):

*Whereas* in the 1899 Convention for the Pacific Settlement of International Disputes ("1899 Convention"), the Signatory Powers undertook to "organize a Permanent Court of Arbitration" (Article 20), for which an "International Bureau, established at The Hague" would serve as record office (Article 22); and *whereas* pursuant to the 1907 Convention for the Pacific Settlement of International Disputes ("1907 Convention"), the seat of the PCA is in The Hague (Article 43);

*Whereas* the Netherlands and Mr. Andrew Carnegie reached an agreement, by way of exchange of letters between the Netherlands Minister to the United States, Baron Willem Gevers, and Mr. Carnegie dated 16 April 1903 and 22 April 1903 ("1903 Agreement"), pursuant to which the Netherlands accepted responsibility for the disbursements of funds that Mr. Carnegie wished to provide for "the erection of a Court House and Library, a Temple of Peace for the Permanent Court of Arbitration," and in which the Netherlands advised Mr. Carnegie that "[u]nder the Netherlands Law the most suitable manner of providing for perpetuity and efficiency of management would be what is known as a 'Stichting'"; and *whereas* the Netherlands recommended that such a "Stichting" be established by Mr. Carnegie himself;

*Whereas* in view of the advice received from the Netherlands, Mr. Carnegie executed a Deed to Create a Stichting on 7 October 1903 ("Deed"), creating a foundation – the Carnegie Stichting ("Foundation") – for the purpose of "building, establishing and maintaining in perpetuity at the Hague a Court-House and Library (Temple of Peace) for the Permanent Court of Arbitration established by the Treaty of July 29th 1899";

*Whereas* in the Deed, Mr. Carnegie recorded that the Netherlands, "according to agreement," would "see to the appointment of a board of directors under proper control" for the Foundation;

*Whereas* the PCA, as contemplated by the 1903 Agreement and the Deed, has used the premises located at cadastral parcel no. 6374 in The Hague ("Peace Palace Premises") for the exercise of its official functions since 1913 until the present day, including for hearings and meetings and as office space and archives; and *whereas* the PCA has primarily used the building inaugurated in 1913 ("Historic Palace") and on a subsidiary basis the annex completed in 2007 ("Academy Building");

*Whereas* the Netherlands intends to engage in a renovation of the Historic Palace, during which the Historic Palace may temporarily become unavailable for use by the PCA;

*Whereas* under the Headquarters Agreement, the "Appropriate Authorities" of the Netherlands, as the PCA's host State, are under an obligation to "take whatever reasonable action may be necessary, within their powers, to ensure that the PCA shall not be dispossessed of all or any part of the Headquarters";

Whereas the present understanding relates exclusively to the relationship between the Netherlands and the PCA under the Headquarters Agreement in respect of the PCA's use of the Historic Palace.

1. Article 1, paragraph 6, of the Headquarters Agreement is to be read in conjunction with the 1903 Agreement and the Deed. Consequently, the PCA is entitled to the use of the Historic Palace as its Headquarters "on a permanent basis" to carry out official functions, without prejudice to the use by the PCA of other premises in the Netherlands, including the Academy Building. Such entitlement encompasses the use of certain other parts of the Peace Palace Premises (such as the security gate and the gardens) as necessary for the exercise of the PCA's official functions.
2. The Headquarters Agreement, and in particular its Article 4, entail a duty on the part of the Netherlands to facilitate the smooth and efficient functioning of the PCA with respect to the use of its Headquarters, including vis-à-vis the Foundation.
3. Consequently, the Appropriate Authorities of the Netherlands will take reasonable action within their powers to the effect that:
  - a. The Foundation respects the purpose for which it was established, which is to maintain at The Hague a Court-House and Library for the PCA.
  - b. The PCA will have at its disposal in the Historic Palace the necessary space to carry out official functions at its Headquarters, notably hearing rooms and break-out rooms sufficient to conduct at least two parallel hearings (including when the International Court of Justice is "in session," *i.e.* holds a hearing at the Great Hall of Justice), as well as office and archival space.
  - c. Use of the Historic Palace by the PCA for its official functions takes precedence over activities that may be organized from time to time by the Foundation, with effective procedures to be implemented to ensure that such precedence is respected.
  - d. Proper control, including financial control, is exercised over the Foundation, including its board of directors, through all appropriate means at the Netherlands' disposal.
4. Should there be a change in the legal ownership of the Peace Palace Premises, the PCA and the Ministry shall enter into consultations to consider the revision of paragraphs 2 and 3 of this understanding as necessary.
5. Should the Historic Palace temporarily become unavailable for use by the PCA due to renovation, the PCA shall have a right to return to the Historic Palace, the specifics of which will be agreed between the PCA and the Netherlands prior to the PCA vacating the Historic Palace.

The PCA proposes that this Note and the Ministry's affirmative reply to it shall together constitute confirmation of certain common understandings of how the relevant provisions of the Headquarters Agreement are to be construed.

The International Bureau of the Permanent Court of Arbitration avails itself of this opportunity to assure the Ministry of Foreign Affairs of the Kingdom of the Netherlands of its highest consideration.

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

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**Nr. II**

MINISTRY OF FOREIGN AFFAIRS

The Hague, 18 March 2021

Min-BuZa.2021.7657-22

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the International Bureau of the Permanent Court of Arbitration and has the honour to acknowledge receipt of the PCA's Note BI 327305 of 11 March 2021, which reads as follows:

(Zoals in Nr. I)

The Ministry has the honour to inform the PCA that the proposed interpretative understanding with respect to the scope and meaning of the Netherlands' obligations under Article 4 of the Headquarters Agreement is acceptable and that the PCA's Note and this reply shall together constitute confirmation of certain common understandings between the Kingdom of the Netherlands and the PCA of how the relevant provisions of the Headquarters Agreement are to be construed.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the International Bureau of the Permanent Court of Arbitration the assurances of its highest consideration.

*The International Bureau  
Permanent Court of Arbitration  
Peace Palace  
Carnegieplein 2  
2517 KJ The Hague  
The Netherlands*

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Uitgegeven de *dertiende* april 2021.

*De Minister van Buitenlandse Zaken,*

S.A. BLOK