

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2022 Nr. 98

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden, ten behoeve van Sint Maarten, en de Internationale Bank voor Wederopbouw en Ontwikkeling en de Internationale Financieringsmaatschappij inzake de vestiging en het functioneren van een kantoor op Sint Maarten;
Philipsburg, 19 oktober 2022*

Voor een overzicht van de verdragsgegevens, zie verdragsnummer 013667 in de Verdragenbank.

B. TEKST

Agreement between the Kingdom of the Netherlands, in respect of Sint Maarten, and the International Bank for Reconstruction and Development and the International Finance Corporation regarding the establishment and operation of an office in Sint Maarten

Preamble

The Kingdom of the Netherlands, in respect of Sint Maarten, on the one side,
and

the International Bank for Reconstruction and Development (IBRD)
and

the International Finance Corporation (IFC) (together the "World Bank Group Organizations"), on the other side;

Having regard to

- (i) the Articles of Agreement of the International Bank for Reconstruction and Development of 27 December 1945, as amended, effective 27 June 2012 (in particular, Article VII on IBRD's status, immunities and privileges);
 - (ii) the Articles of Agreement of the International Finance Corporation of 11 April 1955, as amended, effective 16 April 2020 (in particular, Article VI on IFC's status, immunities and privileges);
- Considering that the Kingdom of the Netherlands has acceded to the Convention on the Privileges and Immunities of the Specialized Agencies with respect to IBRD as of July 21, 1949;

Noting that as of October 10, 2010, Sint Maarten is a constituent country within the Kingdom of the Netherlands;

Noting that the World Bank Group Organizations have established or may establish an Office (as defined in Article I) in Sint-Maarten; and

Desiring to further define the status, privileges and immunities of such Office (as defined in Article I) in Sint Maarten and to enable the World Bank Group Organizations to fulfill their purposes and functions in Sint Maarten;

Have agreed as follows:

Article I

Definitions

Section 1. Capitalized terms used in this Agreement have the meanings given to them in this Article I, unless the context requires otherwise.

Section 2. For the purpose of this Agreement:

- a) "Agreement" means this Establishment Agreement between the Kingdom of the Netherlands, in respect of Sint Maarten, and the International Bank for Reconstruction and Development and the International Finance Corporation regarding the establishment and operation of an Office in Sint Maarten;
- b) "Host State" means the Kingdom of the Netherlands, in respect of Sint Maarten;
- c) "World Bank Group Organizations" means the International Bank for Reconstruction and Development and the International Finance Corporation and the "World Bank Group Organization" means one of the World Bank Group Organizations as so defined;
- d) „Party" means the Kingdom of the Netherlands, in respect of Sint Maarten, or the World Bank Group Organizations, as the context requires; and "Parties" means, collectively, the Kingdom of the Netherlands, in respect of Sint Maarten, and the World Bank Group Organizations;
- e) "Office" means the representative office(s) of the World Bank Group Organizations in Sint Maarten;
- f) "Premises" means buildings, parts of buildings and areas, including installations and facilities of the World Bank Group Organizations made available to be maintained, occupied or used by the World Bank Group Organizations in Sint Maarten in connection with the functions and purposes of the World Bank Group Organizations in Sint Maarten.
- g) "Legal Instruments Establishing the Organizations" means the Articles of Agreement of the International Bank for Reconstruction and Development and the Articles of Agreement for the International Finance Corporation.
- h) "Immediate Family" in this Agreement means a person who is a member of the household of a Staff of the World Bank Group Organizations as defined in the Staff Rules of the World Bank Group Organizations; and
- i) "Staff of the World Bank Group Organizations" or "Staff" means all staff members and heads of office who hold appointments under the Staff Rules and policies of the World Bank Group Organizations.

Article II

Purpose of the Agreement

This Agreement shall regulate matters relating to or arising out of the establishment and proper functioning of the Office of the World Bank Group Organizations in Sint Maarten including the privileges and immunities for the World Bank Group Organizations. It shall, inter alia, create conditions conducive to the stability and independence of the Office and facilitate its smooth and efficient functioning.

Article III

The Office

Section 1. The World Bank Group Organizations operate, or may operate, an Office in Sint Maarten to carry out its functions in accordance with the relevant World Bank Group Organizations' policies and procedures. The Office may be staffed by one or more Staff of the World Bank Group Organizations, who may be assigned from the headquarters of the World Bank Group Organizations. The World Bank Group Organizations may also employ a number of locally-recruited staff to provide operational and administrative support services. All Staff of the World Bank Group Organizations serving with the Office shall be under the authority of the relevant head of office.

Section 2. The Premises shall be inviolable and shall be under the control and authority of the World Bank Group Organizations. The Government of Sint Maarten shall ensure that the Premises is not disturbed by persons not authorized by the head of office (or their representative) to enter the Premises, or by disturbance in its immediate vicinity. The Government of Sint Maarten shall assist the World Bank Group Organizations in finding suitable office space for the Office in Sint Maarten at their request. No Government, or any other person exercising any public authority within Sint Maarten, may enter the Premises to perform any duties except with the consent of, and under conditions approved by, the head of office or their designee. However, in the event of fire or other such emergency, such consent shall be deemed to have been given if immediate protective measures are needed. Any building used by the World Bank Group Organizations with the agreement of the Government of Sint Maarten for meetings convened by a World Bank Group Organization shall be deemed temporarily to form part of the Premises and shall be entitled to the same treatment. The Government of Sint Maarten shall take all appropriate measures to ensure that the Premises are supplied with the necessary public services on terms not less favorable than those accorded to resident representatives or similar offices of other international organizations or diplomatic missions in Sint Maarten.

Article IV

Certain Immunities of the World Bank Group Organizations and the Office and its Staff

Section 1. The World Bank Group Organizations shall use their best efforts to ensure that the privileges, immunities, exemptions and facilities conferred by this Agreement are not abused and for this purpose shall establish such rules and regulations as they may deem necessary and expedient. The Staff of the World Bank Group Organizations shall co-operate at all times with the Host State to facilitate the proper administration of justice, and secure the observance of police regulations and the laws in Sint Maarten. Should the Host State consider that an abuse has occurred, consultations shall be held between the Host State and the World Bank Group Organizations to determine whether any such abuse has occurred.

Section 2. The Host State shall accord to the World Bank Group Organizations and the Staff of the World Bank Group Organizations, regardless of nationality or residence, consistent with the privileges, immunities and exemptions provided for in the Legal Instruments Establishing the Organizations and the Convention on the Privileges and Immunities of the Specialized Agencies, the following privileges and immunities:

- a) The property and assets of the World Bank Group Organizations, wherever located, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action;
- b) The archives of the World Bank Group Organizations shall be inviolable, wherever they may be;
- c) The Staff of the World Bank Group Organizations shall be immune from all forms of legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- d) The World Bank Group Organizations' internal employment regime, including employment rules, policies and procedures shall govern exclusively in all matters relating to employment relations concerning the Staff of the World Bank Group Organizations in Sint Maarten;
- e) The Staff of the World Bank Group Organizations serving with the Office in Sint Maarten, their Immediate Family and relatives dependent on them shall be allowed entry into Sint Maarten with assistance from the Kingdom of the Netherlands, through its Ministry of Foreign Affairs, to obtain any visas that may be required;
- f) The Staff of the World Bank Group Organizations, their Immediate Family and relatives dependent on them shall have the same privileges with respect to exchange facilities as are available to members of the diplomatic corps serving in Sint Maarten;
- g) The Staff of the World Bank Group Organizations serving with the Office shall be immune from the seizure of their personal baggage and immune from the inspection of their official baggage;
- h) The Staff of the World Bank Group Organizations serving with the Office in Sint Maarten, their Immediate Family and relatives dependent on them shall have access to the same repatriation facilities in times of international crises as are made available to members of the diplomatic corps serving in Sint Maarten;
- i) The Government of Sint Maarten shall consider favorably applications by Immediate Family and relatives dependent on Staff of the World Bank Group Organizations serving with the Office to take employment in Sint Maarten in accordance with prevailing rules and regulations; and
- j) The Staff of the World Bank Group Organizations serving with the Office in Sint-Maarten shall have the right to import, free of duty, their furniture and effects at the time of first taking up their post in Sint Maarten.

Section 3. The Government of Sint Maarten shall provide identification cards to Staff of the World Bank Group Organizations serving with the Office in Sint Maarten as and when they become available to certify that they are entitled to the privileges, immunities, and exemptions provided for in the Agreement.

Article V

Exemption from Taxation, Duties, and Fees

Section 1. The World Bank Group Organizations, their assets, property and income, and their operations and transactions, shall be exempted from all taxes and customs duties in accordance with the exemption from taxation provided under the Legal Instruments Establishing the Organizations and the Convention on the Privileges and Immunities of the Specialized Agencies. The World Bank Group Organizations shall also be immune from liability for the collection or payment of any tax or duty. Notwithstanding section 9 (b) of Article VII of the Articles of Agreement of the International Bank for Reconstruction and Development and section 9 (b) of Article VI of the Articles of Agreement of the International Finance Corporation, the exemption from taxation available to the World Bank Group Organizations and the Staff of the World Bank Group Organizations shall include, *inter alia*, exemption from the following categories of taxation or levies, regardless of the nationality or residence of the Staff of the World Bank Group Organizations:

- a) Taxation of Staff (including mandatory charges, such as social security) on or in respect of salaries and emoluments paid to them by the World Bank Group Organizations, regardless of nationality or residence of the Staff;
- b) Payment obligations, employer's or employees', to state pensions, national health insurance plans, social security accounts or equivalent schemes;

- c) Exemption from all forms of taxation, including indirect taxes that may be included in the price of goods or services supplied to the World Bank Group Organizations, including sale/purchase and/or leasing/rental charges for the Premises of the World Bank Group Organizations. If such indirect taxes are paid by the World Bank Group Organizations, they shall be refunded in full to the World Bank Group Organizations by the Government of Sint Maarten insofar as Sint Maarten makes provisions to that effect for foreign diplomatic missions;
- d) Radio and television or similar telecommunication license fees;
- e) Recording charges and court fees in connection with transactions to which any of the World Bank Group Organizations is a party;
- f) Customs and import duties on all dutiable goods for use by the Office;
- g) Goods and services tax (or its equivalent) on all imports for use by the World Bank Organizations;
- h) Goods and services tax (or its equivalent) in respect of the local consumption of goods and services by the Office;
- i) Government tax on utilities bills and telephone charges, with respect to the Office; and
- j) Taxation of income receivable by any of the World Bank Group Organizations, including such taxes that are withheld by the payee (whether called withholding tax or otherwise).

Section 2. The Staff of the World Bank Group Organizations serving in the Office shall be exempt from national service obligations, provided that, in respect of nationals of the Kingdom of the Netherlands, such exemption shall be confined to employees whose names have, by reason of their duties, been placed on a list compiled by the World Bank Group Organizations and approved by the Host State. Should other Staff of the World Bank Group Organizations who are nationals of the Host State be called up for national service, the Host State shall, at the request of the World Bank Group Organizations, grant such temporary deferments in the call-up of such Staff as may be necessary to avoid interruptions in the continuation of essential work.

Article VI

Privileges for Communications

Section 1. The official communications of the Office shall not be subjected to censorship, and the World Bank Group Organizations shall have the right to use codes and to dispatch and to receive correspondence by courier or in sealed bags, which shall have the same inviolability as that recognized for diplomatic couriers and bags.

Section 2. If the World Bank Group Organizations so request, the Government of Sint Maarten shall, without charge or limitations, provide the necessary permits, licenses, or other authorizations needed to enable the World Bank Group Organizations to connect to, and to utilize fully, their private telecommunications networks. The World Bank Group Organizations may transmit any form of communication, including but not limited to videos, voice and data over the telecommunications networks without any restriction.

Article VII

Immunity from Legal Process

Section 1. The World Bank Group Organizations shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of their powers to issue or guarantee securities. This immunity shall include immunity from any type of legal process in respect of personnel matters involving Staff of the World Bank Group Organizations. Any dispute arising between the World Bank Group Organizations and the Staff of the World Bank Group Organizations shall be resolved under the internal justice system of the World Bank Group Organizations, which shall have exclusive jurisdiction over such personnel matters. Any dispute with contractual third parties shall be resolved under dispute settlement arrangements under the contract.

Section 2. This immunity may be expressly waived by the relevant World Bank Group Organization for any specific case, in writing.

Section 3. No action shall be brought against the World Bank Group Organizations by the Host State or by persons acting for or deriving claims from the Host State or the Government of Sint Maarten.

Section 4. In the very limited and distinct situations as provided in Section 1 of this Article VII where the World Bank Group Organizations may be sued, its property and assets shall nevertheless, wheresoever located and by whomsoever held, be immune from all forms of seizure, confiscation, attachment or sequestration, including prior or provisional restraints, before the delivery of a final judgment against the World Bank Group Organizations.

Article VIII

Financial Facilities

Section 1. The World Bank Group Organizations may, without being restricted by financial controls, regulations or moratoria of any kind, to the extent necessary to carry out their operations, hold funds, gold or currency of any kind and operate accounts in any currency, and may freely transfer their funds, gold or currency from or to Sint Maarten or within Sint Maarten and convert any currency into any other currency. Furthermore, the World Bank Group Organizations may purchase, in exchange for any convertible currency, the national currency of the Government in such amounts as they may from time to time require for meeting their expenditures in Sint Maarten, at the official exchange rate no less favorable than that accorded to other international organizations or diplomatic missions in Sint Maarten.

Article IX

Import and Export

The World Bank Group Organizations may import and export goods necessary for the operations of their Office without restrictions and prohibitions imposed by the Government of Sint Maarten. It is understood that articles imported under this exemption shall not be sold in Sint Maarten. The foregoing restriction on sales does not apply to the World Bank Group Organizations' own products or goods. The publications of the World Bank Group Organizations shall be free of any prohibitions and restrictions on imports and exports.

Article X

Final Provisions, Entry into Force and Termination

Section 1. This Agreement is legally binding on the Parties. This Agreement shall enter into force on the day of its signature.

Section 2. With respect to the Kingdom of the Netherlands, this Agreement shall apply to Sint Maarten only.

Section 3. Any dispute or difference arising out of, or in connection with, this Agreement that is not amicably settled between the Parties shall be settled by arbitration in accordance with UNCITRAL Arbitration Rules as at present in force. The number of arbitrators shall be one and the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration in The Hague, The Netherlands.

Section 4. This Agreement shall cease to be in force by mutual consent of the Parties, or if the Premises are removed from the territory of the Host State or if the Office dissolved, except for such provisions as may be applicable in connection with the orderly termination of the operations of the office at its headquarters in the Host State and the disposition of its property therein.

Section 5. This Agreement may be amended by the mutual written consent of the Parties.

Section 6. The Legal Instruments Establishing the Organizations shall continue to govern and apply, and their operation shall not be curtailed in any way by this Agreement.

IN WITNESS WHEREOF, the representatives, being duly authorized thereto, have signed this Agreement.

DONE in Philipsburg, this 19th day of October 2022, in three originals, in the English language.

For the Kingdom of the Netherlands, in respect of Sint Maarten,

SILVERIA ELFRIEDA JACOBS

For International Bank for Reconstruction and Development,

OGO-OLUWATOYIN JAGHA

For International Finance Corporation,

OGO-OLUWATOYIN JAGHA

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van het Verdrag zijn ingevolge artikel X, eerste lid, van het Verdrag op 19 oktober 2022 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag voor Sint Maarten.

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het Verdrag zal zijn bekendgemaakt in Sint Maarten op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de zesentwintigste oktober 2022.

De Minister van Buitenlandse Zaken,

W.B. HOEKSTRA