

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2023 Nr. 87

A. TITEL

*Briefwisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en de Wereldgezondheidsorganisatie (WHO) inzake het tweede WHO World Local Production Forum, te 's-Gravenhage, Nederland, van 6 – 8 november 2023;
Genève, 13 juli 2023*

Voor een overzicht van de verdragsgegevens, zie verdragsnummer 013985 in de Verdragenbank.

B. TEKST

Nr. I

WORLD HEALTH ORGANIZATION

5 July 2023

WHOHQ-E50-87-21

Dear Ambassador,

I have the honour to refer to the holding of the second World Health Organization (hereinafter referred to as "the Organization") World Local Production Forum. The Forum is being organized as a result of resolutions WHA74.6 on Strengthening Local Production of Medicines and Other Health Technologies to Improve Access, which requested the Director-General of the Organization, inter alia, to continue to support Member States in promoting quality and sustainable local production and establish new global platforms to promote transfer of technology and local production, and WHA73.1 on COVID-19 response, which calls for rapid scaling up of manufacturing and ensuring equitable, and timely access to quality-assured COVID-19 medical products.

I have the honour to enquire whether the Government of the Kingdom of the Netherlands (hereinafter referred to as the "Government") would wish to host this event and, if so, whether the Government could agree with the following:

Article I

– Definitions

1. Agreement means the entire Agreement reached by the Parties by signing the exchange of letters constituting an agreement;
2. Convention on the Privileges and Immunities means the Convention on the Privileges and Immunities of the Specialized Agencies, adopted by the General Assembly of the United Nations on 21 November 1947, and Annex VII thereof, adopted by the First World Health Assembly on 17 July 1948 and last amended by the Eleventh World Health Assembly (resolution WHA 11.30) to represent the third revised text of Annex VII, to which the Kingdom of the Netherlands acceded on 18 March 1965;
3. Officials of the Organization means all members of the Secretariat of the World Health Organization serving under a WHO contract of appointment and seconded or loaned to the Convention Secretariat to assist with the organization and holding of the Forum.

Article II

– Date and Venue

The Forum shall be held in The Hague, the Netherlands, from November 6 to 8, 2023 at the invitation of the Government.

Article III

– Obligations of the Parties

1. The Organization shall have the responsibility for organizing, conducting and managing the Forum.
2. The Government shall provide all the necessary local facilities and assistance to ensure an efficient and smooth organization of the proceedings of the Forum.

Article IV

– Premises, Equipment, Facilities, Services and Local Staff

1. The Government shall make available to the Organization, free-of-charge, premises, including suitably equipped offices for the Organization, furniture, equipment, services, appropriate infrastructure, and local staff, necessary for the holding of the Forum.
2. Premises for the final on-site preparation and coordination work of the Secretariat as part of the premises referred to in paragraph 1 of this article shall remain at the disposal of the Organization during the following periods:
 - a) a preparatory and closing period of at least twelve full days, from October 26 to November 05, 2023 and November 09, 2023;
 - b) the duration of the Forum from November 6 to 8, 2023.
3. The Secretariat's offices made available by the Government, shall be vacated on October 25, 2023 at midnight or no later than twelve days before the Forum.
4. The Government shall make available to the Organization a secured area for the period of the Forum, as may be the case, to store equipment and material that should be shipped to the seat of the Organization.

Article V

– Participants

1. The Government shall authorize the persons specified below to enter the Kingdom of the Netherlands and stay for the entire period of their duties or mission in connection with the Forum provided that the conditions governing the granting of short stay visa and entry are fulfilled. A list of persons attending or participating in the Forum will be forwarded by the Organization to the Government no later than 30 days prior to the opening of the Forum. Such a list may be subject to changes that shall be forwarded to the Government thereafter.
 - a) Representatives of all WHO Member States and Associate Members;
 - b) Representatives of the United Nations, its Specialized Agencies and other intergovernmental organizations, non-State actors and other relevant stakeholders invited to attend the Forum;
 - c) Officials and advisers of the Organization.
2. The Government shall provide all the necessary facilities for the entry to and exit from the Kingdom of the Netherlands to all participants mentioned above or who are performing activities connected with the Forum. Where visas are necessary, the Government shall assist the relevant competent authorities to issue visas in a timely fashion.

Article VI

– Legal Status, Privileges and Immunities

1. For the purpose of this Agreement, the Government shall apply the provisions of the Convention on the Privileges and Immunities as well as the provisions set forth in the following Articles.
2. Persons referred to under Articles V and VI of the Convention on the Privileges and Immunities and under paragraphs 2 and 3 of Annex VII to the Convention shall, while attending the Forum, in order to discharge

their assigned official functions, enjoy the privileges and immunities provided for in the above mentioned Articles and Annex, respectively, in accordance with the Convention on the Privileges and Immunities.

3. Representatives of intergovernmental agencies and any other persons invited by the Organization to attend the Forum in an official capacity, shall, while attending the Forum, enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity.

4. This Article is without prejudice to the privileges and immunities that the Kingdom of the Netherlands may have to apply to representatives of States and of the United Nations, the Specialized Agencies and other intergovernmental agencies in compliance with relevant international agreements to which the Kingdom of the Netherlands is a party.

5. Without prejudice to the foregoing, the Government shall, in addition, also grant the privileges, immunities and facilities set out in Articles VIII, IX, XI, XII, XIII and XIV below.

6. Nothing in or relating to this Agreement shall be deemed a waiver of any of the privileges and immunities of the Organization in conformity with the Convention on the Privileges and Immunities or otherwise under any national or international law, convention or agreement. Privileges and immunities are granted to officials of the Organization in the interest of the Organization, and not for their personal benefit. Such immunity does not exempt officials of the Organization from the duty to observe the laws and regulations of the host country, including traffic regulations. The Director-General of WHO may waive the immunity of any official of the Organization in any case where the Director-General of WHO considers that the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization.

Article VII

– Accommodation

The Government shall propose accommodations in the proximity of the conference centre, but is not responsible for the payment of accommodation for persons participating in or attending the Forum.

Article VIII

– Local Transport and Banking Facilities

1. The Government shall take the necessary steps to facilitate the arrival in the Kingdom of the Netherlands and the departure from the Kingdom of the Netherlands of all persons who are participating in an official capacity in the work of the Forum.

2. The Government shall take the necessary steps in order to ensure that a special reception desk at Amsterdam Schiphol Airport will be set up to welcome all persons who are participating in an official capacity in the Forum, upon arrival. The Government shall offer free-of-charge service of facilitating transportation of high ranking officials to the suggested hotels in Hague at specific dates and timeframes, as well as back to the airport on departure. The Government shall, in addition, set up a reception desk at the Forum to further provide guidance to all persons who are participating in an official capacity on local transportation.

3. The Government shall make available to the Organization, free-of-charge and for the duration of the Forum, vehicles and staff necessary for the local transportation of delegates and Officials of the Organization equipment, materials and documents, as required in connection with the Forum.

4. The Government shall assign a transport coordinator to liaise with the Organization on transportation matters.

Article IX

– Communication Facilities

1. The Government shall be responsible for the provision, free-of-charge, of all official communications for the effective functioning of the Forum.

2. Section 12 of Article IV of the Convention on the Privileges and Immunities shall apply to the official communications of the Organization.

Article X

– Local Personnel

The Government shall provide, at its expense, for the assistance of the Organization, the personnel required for the smooth conduct of the Forum, such as, but not limited to, security staff, ushers, messengers, drivers, clerks, technicians (IT, audio visual equipment, telephone), cleaners, porters, documents reproduction and distribution staff, reception and registration staff, media staff, and other personnel required.

Article XI

– Medical Facilities

1. The Government shall provide medical facilities, adequate for first aid in emergencies within the Forum area.
2. For serious emergencies, the Government shall ensure immediate transportation and admission of the participants to a hospital through the regular Dutch Healthcare system.
3. Neither the Government nor the Organization shall be responsible for the cost of any hospital treatment nor for the transportation towards a medical facility.

Article XII

– Privileged Importation and Exportation of Equipment by the Organization

For the purpose of this Agreement, the Government shall apply the provisions of the Convention on the Privileges and Immunities and in particular Sections 4, 6, 9 and 10 of Article III, in respect of equipment that is reasonably required to be imported into, and exported from, the Kingdom of the Government, by the Organization for the purpose of the Forum. In particular, the Government, through the Dutch Customs Office, shall allow the temporary importation, and exportation, tax-free and duty-free, of all equipment that is required by the Organization for the Forum, under the provisions of the Convention on the Privileges and Immunities, and shall waive import and export duties and taxes on supplies the Organization deems necessary for the Forum. Such temporary importation and exportation and the issuance of the necessary permits shall be in accordance with the processes and procedure applicable in the Netherlands. The Government shall facilitate the issuance without delay of any necessary import and export permits for this purpose.

Article XIII

– Inviolability and Protection of the Premises Placed at the Disposal of the Organization

1. The Government shall ensure that the premises placed at the disposal of the Organization in connection with the Forum shall, throughout the period they are being used by the Organization, be considered as the premises of the Organization and shall thereby enjoy the benefits of inviolability referred to in Article III Section 5 of the Convention on the Privileges and Immunities. The authorities of the Government shall not enter these premises without the consent of the Organization. The consent of the Organization may however be assumed in case of fire or other disaster requiring prompt protective action.
2. The premises of the Organization shall be placed under the control and authority of the Organization, which shall have the exclusive right to authorize or prohibit entry thereto of any person and which may also cause any person to be removed therefrom.
3. The Government shall take appropriate measures to ensure that the premises placed at the disposal of the Organization are not disturbed by the entry of unauthorized persons or groups of persons, by disorder or by unreasonable noise in the immediate vicinity thereof. To this end, the Government shall, as necessary, provide security officers at the premises of the Organization and take any other measure deemed by it to be necessary.
4. At the request of the Organization, the Government shall provide the necessary security officers to give assistance for maintaining order, if the need arises, within the premises placed at the disposal of the Organization, and to expel any person who may disturb it and to provide general security services within the premises.
5. As per Article III Section 6 of the Convention on the Privileges and Immunities, the archives and in general all the documents belonging to or held by the Organization shall be inviolable.

Article XIV

– Foreign Exchange

1. Without prejudice to the provision of Section 7 of Article III of the Convention on the Privileges and Immunities, the Organization may, through its official banks, transfer funds to the Kingdom of the Government in the amounts required to cover its expenses for the purpose of the Forum, and transfer out of the Kingdom of the Government any balance of funds of the Organization not utilized in the course of the Forum.

Article XV

– Damages and Accidents

1. The respective responsibilities of the Government and of the Organization concerning damage and accidents that may be caused to the premises or to the fixtures, furniture and equipment placed at the disposal of the Organization or accidents or injuries which may be sustained by persons in connection with the holding of the Forum shall be as follows:

- a) The Government shall assume full responsibility and shall hold the Organization and its officials harmless for claims arising out of the official conduct of the Officials of the Organization while they are in the Kingdom of the Netherlands for the purpose of the Forum under this Agreement;
- b) Sub-paragraph (a) shall not apply if that liability results from gross negligence or wilful misconduct on the part of the Officials of the Organization.

Article XVI

– Settlement of disputes

Any dispute relating to the interpretation or application of this Agreement shall, unless amicably settled, be subject to conciliation. In the event of failure of the latter, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the Government and the Organization, or in the absence of agreement, in accordance with the UNCITRAL Arbitration Rules applicable on the date of signature of this Agreement. The Government and the Organization shall accept the arbitral award as final.

Article XVII

– Coordination between the Parties

The Government shall appoint a local organizing committee. The Government and the Organization shall each appoint senior officers to coordinate their activities in order to ensure the smooth preparation and running of the Forum.

Article XVIII

– Final Provisions

1. The Organization may postpone or change the venue and/or timing of the Forum upon consultation with the Government if the security phase determined by the United Nations Department of Safety and Security increases from the security rating at the time of signature of the Agreement and prior to the opening of the Forum. If the Organization chooses to exercise this right, the Organization shall be released from any and all commitments related to the postponed and/or changed meeting or meetings under this Agreement and the Parties shall immediately consult with a view to limiting and equitably distributing reasonable costs associated with such a decision. In the event of such an increase in the security rating, and if the Organization does not postpone or change the venue of the Forum, any additional costs incurred by the Organization for measures deemed by the Parties in consultation to be necessary, shall be borne by the Government.

2. Any notice or request required or permitted to be given or made under this Agreement shall be in writing and shall be delivered by hand, mail or email to the entity to which it is required to be given or made at the address specified below or such other address as will be hereafter notified. Any such communication shall be deemed to have been given or made on the date it was hand delivered, registered or transmitted from the sender's email operator, but any assumption of the actual notice shall be subject to rebuttal to show that it has not actually been received.

3. This Agreement may only be amended and terminated by mutual agreement formalized in writing by the Government and the Organization.

If the foregoing is acceptable to the Government, I have the honour to propose that this letter and the Government's letter in reply shall constitute an Agreement between the Kingdom of the Netherlands and the World Health Organization concerning the holding of the second WHO World Local Production Forum in The Hague, the Netherlands from 6 – 8 November 2023.

This Agreement shall enter into force on the date of the Government's letter in reply and shall remain in force for the duration of the Forum and for a period thereafter as is necessary for all matters relating to any of its provisions to be settled. The total duration of this Agreement however shall not exceed one year.

Please accept, Dear Ambassador, the assurances of my highest consideration.

Yours faithfully,

YUKIKO NAKATANI
Assistant Director General
Access to Medicines and Health Products

*H.E. Mr. Paul BEKKERS
Ambassador
Permanent Representative of the Kingdom of the Netherlands to the United Nations Office and other
International Organizations at Geneva*

Nr. II

PERMANENT MISSION OF THE KINGDOM OF THE NETHERLANDS TO THE UN, WTO AND OTHER INTERNATIONAL ORGANISATIONS

13 July 2023

GEV/2023-140

Dear Dr. Yukiko Nakatani,

I have the honour to refer to your letter with reference WHOHQ-E50-87-21 of 5 July 2023 relating to an Agreement between the Kingdom of the Netherlands and the World Health Organization concerning the holding of the second WHO World Local Production Forum in The Hague, the Netherlands from 6–8 November 2023 (hereinafter referred to as "the Forum"), which reads as follows:

(Goals in Nr. I)

I am authorized by the Government of the Kingdom of the Netherlands to state that it agrees to the proposals formulated in your letter of 5 July 2023 regarding the organization of the Forum.

Furthermore, I am authorized to state that the Government of the Kingdom of the Netherlands considers your letter and this reply as together constituting an Agreement between the Kingdom of the Netherlands and the World Health Organization in respect of the Forum. The Agreement shall enter into force on the date of this reply and shall remain in force for the duration of the Forum and for such additional period as is necessary for its preparation and for all matters relating to any of its provisions to be settled. The total duration of this Agreement, however, shall not exceed one year which may be extended by mutual written agreement of the Parties.

Please accept, Madam, the assurances of my highest consideration.

Yours sincerely,

PAUL BEKKERS
Ambassador
Permanent Representative of the Kingdom of the
Netherlands to the United Nations Office and other
International Organizations

*Yukiko Nakatani
Assistant Director General
Access to Medicines and Health Products*

D. PARLEMENT

Het in de brieven vervatte verdrag heeft ingevolge artikel 7, onderdeel c, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

De bepalingen van het in de brieven vervatte verdrag zijn ingevolge het gestelde in de laatste alinea van brief nr. II op 13 juli 2023 in werking getreden.

Het in de brieven vervatte verdrag zal ingevolge het gestelde in dezelfde alinea niet langer dan één jaar van kracht zijn.

Wat betreft het Koninkrijk der Nederlanden, geldt het in de brieven vervatte 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 brieven vervatte verdrag zal zijn bekendgemaakt in Nederland (het Europese deel) op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *eenentwintigste* juli 2023.

De Minister van Buitenlandse Zaken,

W.B. HOEKSTRA