

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2003 Nr. 49

A. TITEL

Verdrag tussen het Koninkrijk der Nederlanden en de Organisatie der Verenigde Naties voor Onderwijs, Wetenschap en Cultuur inzake de zetel van het UNESCO-IHE instituut voor wateropleiding; Parijs, 18 maart 2003

B. TEKST

Agreement between the Kingdom of the Netherlands and the United Nations Educational, Scientific and Cultural Organization concerning the seat of the UNESCO-IHE Institute for Water Education

The Kingdom of the Netherlands

and

the United Nations Educational, Scientific and Cultural Organization,

Having regard to the Aide Memoire concluded on March 22, 2000, between the Director-General of UNESCO, the Minister of Foreign Affairs of the Kingdom of the Netherlands, the Minister for Development Cooperation of the Netherlands, the Minister of Education, Culture and Science of the Netherlands, the Vice Minister of the Ministry of Transport, Public Works and Water Management of the Netherlands, and the Chairman of the Board of Governors of the IHE (International Institute for Infrastructural, Hydraulic and Environmental Engineering)-Foundation,

Mindful of the water-related challenges faced by humanity and the paramount role of education, training and awareness raising to prepare professionals and the public worldwide to solve the inherent technical, legal, administrative, social and management problems, as discussed and stated by the World Water Vision consultations and respective Reports, Framework for Action Document and deliberations of the Second World Water Forum and associated Ministerial Conference,

Noting that the Convention on the Privileges and Immunities of the Specialized Agencies adopted on 21 November 1947 by the United Nations General Assembly, to which the Kingdom of the Netherlands is a party, applies to UNESCO Officials servicing the UNESCO-IHE Institute for Water Education, and that individual or specific privileges not covered by this Convention make further provisions necessary,

Desiring, therefore, to conclude an Agreement for the purpose of determining such individual or specific privileges to be granted by the Government of the Kingdom of the Netherlands with respect to the UNESCO-IHE Institute for Water Education,

Have agreed as follows:

Article 1

Definitions

In this Agreement:

- a) "Convention" means the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947;
- b) "Director" means the Director of the Institute;
- c) "Director-General" means the Director-General of UNESCO;
- d) "Experts" means persons, other than those referred to in subparagraph g) of this article, designated by UNESCO or the Institute to perform official missions for the Institute;
- e) "the Government" means the Government of the Kingdom of the Netherlands;
- f) "Institute" means the UNESCO Institute for Water Education (IHE UNESCO);
- g) "Officials" means persons appointed or recruited by UNESCO for employment with the Institute for the purpose of carrying out its official functions, including the Director; it does not include private servants (persons who are in the domestic service of officials), or persons recruited locally and remunerated on an hourly basis;
- h) "Parties" means the Kingdom of the Netherlands and UNESCO;
- i) "Premises" means the premises of the Institute and any buildings, parts of buildings or facilities used by the Institute on a permanent or temporary basis, to carry out its official functions;
- j) "UNESCO" means the United Nations Educational, Scientific and Cultural Organization.

Article 2

Application of the Convention

Except as otherwise provided in this Agreement, the status, privileges and immunities of the Institute shall be governed by the provisions of the Convention.

Article 3

Immunity from Legal Process

1. Within the scope of its official activities, the Institute shall enjoy immunity from any form of legal process, except in the case of:

- a) express waiver by the Director-General of immunity in a particular case
- b) civil action by a third party for damages arising out of an accident caused by a vehicle belonging to or operated on behalf of the Institute where the damages are not recoverable from insurance.

2. Notwithstanding the provisions of paragraph 1, the property of the Institute wherever located and by whomsoever held, shall be immune from search, foreclosure, seizure, all forms of attachment, injunction or other legal process except in so far as in any particular case the Director-General of UNESCO shall have expressly waived the immunity of the Institute.

Article 4

Inviolability of the Premises

1. The premises of the Institute shall be inviolable.

2. The Netherlands authorities may not enter the premises without the consent given by or on behalf of the Director-General or the Director acting on his behalf. If neither of them can be reached in time, such consent shall be assumed in case of fire or other emergency requiring prompt protective action.

3. In other cases, the Director-General or the Director acting on his behalf, shall give serious consideration to a request for permission from the Netherlands authorities to enter the premises, without prejudice to the interests of the Institute.

Article 5

Law and authority on the premises of the Institute

The Institute shall have the right to make internal regulations in order to enable it to carry out its work. Subject to the foregoing provision, the laws and regulations of the Netherlands shall apply at the Institute.

Article 6

Inviolability of the Archives

The archives of the Institute shall be inviolable. The inviolability of the archives shall be understood to apply to all records, correspondence,

manuscripts, photographs, films, recordings, documents, computer data and computer files belonging to or held by the Institute, wherever they are located.

Article 7

Exemption from Taxes and Duties

1. In addition to section 9 and 10 of the Convention the Institute shall, within the scope of its official activities, be exempt from the following taxes:

- a) import taxes and duties (*belastingen bij invoer*);
- b) motor vehicle tax (*motorrijtuigenbelasting*);
- c) tax on passenger motor vehicles and motorcycles (*BPM*);
- d) value added tax (*omzetbelasting*) paid on goods and services involving considerable expenditure or supplied on a recurring basis;
- e) excise duties (*accijnzen*) included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels;
- f) energy tax (*regulerende energiebelasting*);
- g) real property transfer tax (*overdrachtsbelasting*);
- h) insurance tax (*assurantiebelasting*);
- i) tax on tap water (*belasting op leidingwater*).

2. The exemptions provided for in paragraph 1 d), e), f) and g) of this article may be granted by way of a refund. The exemptions provided for in this article shall apply in accordance with the regulations in force in the Kingdom of the Netherlands. Such regulations, however, shall not affect the general principles laid down in this article.

3. No exemption shall be accorded in respect of taxes and duties which represent charges for specific services rendered.

4. Goods acquired or imported under the terms set out in paragraph 1 of this article shall not be sold, given away, or otherwise disposed of in the Netherlands, except in accordance with conditions agreed upon with the Government.

Article 8

Privileges and Immunities of Officials

1. In addition to the provisions of section 19 of the Convention the Officials shall also:

- a) enjoy immunity referred to in paragraph a) of that section notwithstanding that the Officials concerned may have ceased to be Officials of UNESCO;
- b) enjoy immunity from arrest or detention and from inspection or seizure of their personal and/or official baggage;
- c) in accordance with the regulations in force, if they are non residents, have relief from duties and taxes (except payments for services)

in respect of import of their furniture and personal effects, including motor vehicles, at the time of first taking up their post in the Netherlands and the right on the termination of their function in the Netherlands to export with relief from duties and taxes their furniture and personal effects, subject, in both cases, to the conditions agreed with the Government and the regulations in force applicable to international organisations situated within the territory of the Kingdom of the Netherlands.

2. The Director shall enjoy with respect to himself and to members of his family forming part of his household the privileges and immunities granted to heads of diplomatic missions accredited to the Government, in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

3. A Deputy Director or other senior Official, when acting on behalf of the Director during his absence from duty, shall be accorded the same immunities as are accorded to the Director.

4. Officials of rank P.5 and above shall enjoy the privileges and immunities granted to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

5. With regard to non-official acts, confirmed as such by the Institute, immunity shall not apply in the case of a motor-traffic offence committed by an Official, nor in the case of a civil action by a third party for damage arising from an accident caused by a motor vehicle belonging or driven by an Official.

Article 9

Privileges and Immunities of Experts

1. Annex IV to the Convention shall apply to Experts.

2. With regard to non-official acts, confirmed as such by the Institute, with respect to section 3 of Annex IV to the Convention, the immunities provided therein shall not apply to civil action by a third party for damage arising from an accident caused by a motor vehicle belonging to or driven by him.

Article 10

Notification

With respect to section 18 of the Convention the following shall also apply:

1. The Institute shall promptly notify the Government of:
 - a) the appointment of Officials and Experts, their arrival and their final departure, or the termination of their functions with UNESCO or the Institute;

b) the arrival and final departure of members of the families forming part of the households of Officials and, where appropriate, the fact that a person has ceased to form part of the household;

c) the arrival and final departure of domestic employees of Officials and, where appropriate, the fact that they are leaving the employ of such persons.

2. The privileges and immunities granted to the respective categories of persons referred to under paragraph 1 of this article shall be implemented upon arrival of such persons and shall be repealed two weeks after notification to the Ministry that either the person has terminated his function with the Institute, or has ceased to be a member of the family forming part of the household of an Official. In any case, privileges and immunities shall be repealed immediately after final departure of the persons concerned.

3. The Government shall issue to the Officials, to the members of the families forming part of the households of the Officials and to the domestic employees of the Officials an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to the Host State authorities.

Article 11

Social Security

1. In the event that the Institute shall have established its own social security system offering comparable coverage to the coverage under the legislation of the Netherlands, or shall adhere to such a social security system, the Institute and its Officials to whom the aforementioned scheme applies, shall be exempt from social security provisions in the Netherlands.

2. The provisions of paragraph 1 of this article shall apply, *mutatis mutandis*, to the members of the families forming part of the households of the Officials, unless they are employed otherwise than by the Institute or self-employed in the Netherlands or unless they receive social security benefits from the Kingdom of the Netherlands.

Article 12

Employment of Family Members of Officials

1. Members of the family forming part of the household of Officials of the Institute shall be authorised to engage in gainful employment in the Netherlands for the duration of the term of office of the Official concerned.

2. The following persons are members of the family forming part of the household in the sense of paragraph 1:

a) the spouses or registered partners of Officials of the Institute;
b) children of Officials of the Institute who are under the age of 18;
c. children of Officials of the Institute aged 18 or over, but not older than 27, provided that they formed part of the Official's household prior to their first entry into the Netherlands and still form part of this household, and that they are unmarried, financially dependent on the Official concerned and are attending education in the Netherlands.

3. Persons mentioned in paragraph 2 of this Article who obtain gainful employment shall have no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment, provided that measures of execution are taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.

4. In case of the insolvency of a person aged under 18 with respect to a claim arising out of gainful employment of that person under this Article, the immunity of the Official of whose family the person concerned is a member shall be waived by the Institute for the purpose of settlement of the claim, in accordance with the provisions of the applicable international legal instrument regarding waiver.

5. The employment referred to in paragraph 1 of this Article shall be in accordance with Netherlands legislation, including fiscal and social security legislation.

Article 13

Settlement of Disputes

1. Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled through negotiation or any other means agreed by the Parties.

2. If the dispute cannot be settled through the means mentioned in paragraph 1 above it may be submitted, at the request of any Party, to final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration involving International Organisations and States of July 1996, as in effect on the date of submission of the dispute to the Court. The number of arbitrators shall be three.

Article 14

Amendments to Agreement

1. At the request of either Party, this Agreement as well as the Annex may be amended by mutual consent at any time.

2. Any such amendment may be effected by an exchange of Notes.

Article 15

Duration of Agreement and Conditions of Termination

1. This Agreement shall be terminated in the event that the Institute is transferred from the territory of the Kingdom of the Netherlands or in the event that the Institute ceases to exist.

2. In case of dissolution of the Institute, the dissolution shall take place in accordance with the relevant provision of the Statutes.

Article 16

Entry into Force

1. This Agreement shall enter into force on the first day of the second month after the date of signing the Agreement.

2. With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

IN WITNESS WHEREOF the undersigned, duly authorized to that effect, have signed this Agreement.

DONE at Paris, on 18 March 2003, in duplicate, in the English language.

For the Kingdom of the Netherlands

(s.) L. P. VAN VLIET

*For the United Nations Educational,
Scientific and Cultural Organization*

(s.) K. MATSUURA

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen niet de goedkeuring van de Staten-Generaal, alvorens in werking te kunnen treden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge het gestelde in artikel 16 op 1 mei 2003 in werking treden.

Wat het Koninkrijk der Nederlanden betreft, zal het Verdrag alleen voor Nederland gelden.

J. GEGEVENS**Verwijzingen**

- Titel : Statuut van de Organisatie der Verenigde Naties voor Onderwijs, Wetenschap en Cultuur;
Londen, 16 november 1945
- Tekst : *Trb.* 1960, 131 (Engels, Frans en vertaling van gewijzigde tekst)
- Laatste *Trb.* : *Trb.* 1996, 167
- Titel : Verdrag nopens de voorrechten en immuniteiten van de gespecialiseerde organisaties;
New York, 21 november 1947
- Tekst : *Stb.* J 67 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 1994, 211
- Titel : Verdrag van Wenen inzake diplomatiek verkeer;
Wenen, 18 april 1961
- Tekst : *Trb.* 1962, 101 (Engels en Frans)
Trb. 1962, 159 (vertaling)
- Laatste *Trb.* : *Trb.* 1994, 212
- Titel : Verdrag inzake de zetel van het Permanente Hof van Arbitrage;
's-Gravenhage, 30 maart 1999
- Tekst : *Trb.* 1999, 68 (Engels)
- Laatste *Trb.* : *Trb.* 2000, 90

Uitgegeven de *achttiende* april 2003.

De Minister van Buitenlandse Zaken,

J. G. DE HOOP SCHEFFER