

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1993 Nr. 13

A. TITEL

*Briefwisseling tussen de Regering van het Koninkrijk der Nederlanden en de Haagse Conferentie voor Internationaal Privaatrecht inzake het verlenen van nadere voorrechten en immuniteiten;
's-Gravenhage, 16/17 december 1992*

B. TEKST

Nr. I

MINISTER FOR FOREIGN AFFAIRS

The Hague, 16 December 1992

Dear Mr Secretary General,

I have the honour to refer to the discussions between you and representatives of the Government of the Kingdom of the Netherlands concerning the addition of further privileges and immunities to those in the agreement constituted by the exchange of notes of 1 December 1959 (Dutch Treaties Series 1958, 181) between the Netherlands Minister for Foreign Affairs and the Secretary-General of the Hague Conference on Private International Law, regarding the privileges and immunities of the organs of the Conference.

In the light of the understanding reached in those discussions, I have the honour to propose that the privileges and immunities as set out in the Annex be added to those in the agreement constituted by the exchange of notes of 1 December 1959.

I have the honour to propose that if this is acceptable, this note and your note in reply indicating such acceptance shall constitute an agreement between the Government of the Kingdom of the Netherlands and the Hague Conference on Private International Law, which shall enter into force on the date of receipt of your note in reply and shall be terminated in the event that the Permanent Bureau is transferred from the territory of the Netherlands.

With respect to the Kingdom of the Netherlands the agreement constituted by this exchange of notes shall apply to the part of the Kingdom in Europe only.

In explanation of the text of Point III of the Annex, the following is hereby confirmed:

The proposed text is similar to the provisions of other agreements between the Netherlands and international organizations, having their seat in the Netherlands.

The Netherlands Government is willing to exempt the personnel of international organizations and the members of their households from obligatory participation in the Netherlands social insurance schemes, taking into account that the social security coverage by the international organizations is comparable to the coverage offered by the Netherlands schemes. The Netherlands Government has given its consent for exempting the personnel of the Hague Conference by letter of 1 March 1967.

This exemption will be maintained after the agreement constituted by this exchange of notes on immunities and privileges (with the text of Point III of the Annex) between the Netherlands and the Hague Conference has entered into force, notwithstanding the developments that have taken place in the Netherlands schemes ever since.

The present Pension scheme rules of the Hague Conference, that entered into force on 1 June 1981, will also be deemed to offer comparable coverage.

As was discussed on 6 October 1992 between you and representatives of the Ministries of Foreign Affairs and of Social Affairs and Employment, there is one point of concern on the matter for the Netherlands Government: the health insurance, i.e. the insurance for medical etc. care (benefits in kind) offered by the Hague Conference, does not contain the benefits covered under the Exceptional Medical Expenses Act (AWBZ), such as long term-hospitalization.

It is advised to provide for supplementary insurance for your personnel in this respect.

Please, Mr Secretary-General, accept the renewed assurances of my highest consideration.

(sd.) H. VAN DEN BROEK

H. van den Broek

*Mr. G. A. L. Droz
Secretary-General of the
Hague Conference on
Private International Law
at The Hague*

ANNEX

I a) In addition to the privileges and immunities accorded to staff members of the Permanent Bureau, the Secretary-General shall, together with members of the family forming part of his or her household, not being private servants, enjoy the privileges and immunities to which a head of a diplomatic mission in the Netherlands is entitled, unless he or she is a Netherlands national.

b) The Secretary-General shall not practise for personal profit any professional or commercial activity in the Netherlands outside his or her official functions with the Conference.

c) The members of the family forming part of the household of the Secretary-General shall not, when they practise a professional or commercial activity for personal profit in the Netherlands enjoy immunity from administrative and civil jurisdiction in respect of acts performed in the course of, or in connection with, the practice of such activity. However, the immunity with regard to the execution of a judgement will stand, unless waived by the Conference.

(d) With regard to activities referred to in paragraph (c), the persons concerned shall not enjoy any fiscal exemption or privilege or exemption from Netherlands social security provisions.

II The Permanent Bureau shall notify the Government of the Kingdom of the Netherlands of:

a) the appointment of a Secretary-General and of other staff-members of the Permanent Bureau, their arrival and their final departure, or the termination of their functions with the Permanent Bureau, as well as address and change of address.

b) the arrival and final departure of members of the families forming part of the households of the persons referred to in paragraph (a) and, where appropriate, the fact that a person has ceased to form part of the household.

III a) In the event that the Permanent Bureau shall have established its own social security system or has adhered to a social scheme offering coverage comparable to the coverage under Netherlands legislation, the Permanent Bureau and its staff members to whom the aforementioned scheme applies, shall be exempt from social security provisions in force in the Netherlands.

b) The provisions of paragraph a) shall apply, *mutatis mutandis*, to the members of the family forming part of the households of the individuals referred to in paragraph a), unless they are employed in the Netherlands otherwise than by the Conference or unless they are in the domestic service of the aforesaid households.

IV The privileges and immunities herewith provided for are granted on the understanding that the Conference has the duty to

waive the immunity of the persons concerned whenever it is considered that the immunity would impede the course of justice, and where it could be waived without prejudice to the purpose for which the immunities and privileges are accorded.

Nr. II

HAGUE CONFERENCE ON PRIVATE
INTERNATIONAL LAW

The Secretary General

No. 1093 (92) DB
The Hague, 17 december 1992

Excellency,

I have the honour to acknowledge the receipt of your Excellency's note of 16 December 1992, which reads as follows:

(zoals in Nr. I)

I have the honour to inform Your Excellency that the Hague Conference on Private International Law accepts the above proposal of the Government of the Kingdom of the Netherlands and to confirm that Your Excellency's note and this reply shall constitute an agreement between the Hague Conference on Private International Law and the Government of the Kingdom of the Netherlands, which shall enter into force upon receipt by Your Excellency of this note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

(sd.) G. A. L. DROZ

Georges A. L. Droz

*His Excellency
Mr H. van den Broek
Minister of Foreign Affairs
Ministry of Foreign Affairs
P.O. Box 20061
2500 EB The Hague*

D. PARLEMENT

De in de brieven vervatte overeenkomst behoeft ingevolge additioneel artikel XXI van de Grondwet, junctis artikel 62, eerste lid, onderdeel a, van de Grondwet naar de tekst van 1972 en artikel 3 van de wet van 24 december 1947 (*Stb.* H 452) houdende goedkeuring van de toetreding tot het door de Algemene Vergadering van de Verenigde Naties op 13 februari 1946 aangenomen Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties (zie, laatstelijk, *Trb.* 1979, 35) niet de goedkeuring van de Staten-Generaal.

Artikel 3 van deze Wet luidt als volgt:

„Wij behouden Ons voor verdragen te bekrachtigen en andere maatregelen te nemen teneinde aan andere internationale organisaties overeenkomstige voorrechten en immuniteiten toe te kennen als in het in artikel 1 bedoelde Verdrag worden toegekend aan de Verenigde Naties.”.

Deze wet is gecontrasigneerd door de Minister van Buitenlandse Zaken W. VAN BOETZELAER, de Minister van Justitie J. H. VAN MAARSEVEEN, de Minister van Financiën, P. LIEFTINCK en de Minister van Overzeese Gebiedsdelen a.i. GÖTZEN. Zie voor de behandeling in de Staten-Generaal: Bijl. Hand. II 1947/48, 629; Hand. II 1947/48, blz. 636; Hand. I 1947/48, nr. 30; Hand. I 1947/48, blz. 48.

G. INWERKINGTREDING

De bepalingen van de in de brieven vervatte overeenkomst zijn ingevolge het aan het slot van de brieven gestelde op 17 december 1992 in werking getreden.

Wat het Koninkrijk der Nederlanden betreft, geldt de overeenkomst alleen voor Nederland.

J. GEGEVENS

Van het op 31 oktober 1951 te 's-Gravenhage tot stand gekomen Statuut van de Haagse Conferentie voor Internationaal Privaatrecht, bij welk Statuut deze internationale organisatie is opgericht, zijn de tekst en de vertaling in het Nederlands geplaatst in *Trb.* 1953, 80; zie ook, laatstelijk, *Trb.* 1984, 141.

Van de op 1 december 1959 te 's-Gravenhage tot stand gekomen briefwisseling tussen de Nederlandse Minister van Buitenlandse Zaken en de Secretaris-Generaal van de Haagse Conferentie voor Internationaal Privaatrecht inzake het verlenen van voorrechten en immuniteiten aan de organen der Conferentie, naar welke briefwisseling in de onderhavige overeenkomst wordt verwezen, is de tekst geplaatst in rubriek J van *Trb.* 1959, 181.

In overeenstemming met artikel 5, tweede zin, van de Rijkswet van 22 juni 1961 (*Stb.* 207), houdende regeling inzake de bekendmaking van internationale overeenkomsten en van besluiten van volkenrechtelijke organisaties, heeft de Minister van Buitenlandse Zaken bepaald dat de onderhavige overeenkomst in Nederland bekend zal zijn gemaakt op de dag van uitgifte van dit Tractatenblad.

Uitgegeven de zesentwintigste januari 1993.

De Minister van Buitenlandse Zaken,

P. H. KOOIJMANS