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TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2006 Nr. 131

A. TITEL

*Notawisseling houdende een Zetelverdrag tussen het Koninkrijk der
Nederlanden en het Speciale Hof voor Sierra Leone;
's-Gravenhage/Freetown, 19 juni 2006*

B. TEKST

Nr. I

**Headquarters agreement between the Kingdom of the Netherlands
and the Special Court for Sierra Leone**

Ministry of Foreign Affairs of the Kingdom of the Netherlands
Treaties Division

DJZ/VE-262/06

The Hague, 19 June 2006

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Special Court for Sierra Leone and has the honour to propose, in order to facilitate the work of the Court, with reference to the decision by the Special Court to meet away from its seat in accordance with Rule 4 of the Rules of Procedure and Evidence of the Special Court and the Agreement establishing the Special Court and with reference to the request by the Special Court to sit temporarily in the Netherlands for the purpose of conducting the trial against Charles Taylor, the former President of Liberia, taking into account the resolution of the Security Council of the United Nations on the matter, that a headquarters agreement be concluded which shall read as follows:

Article 1

- i. "The Agreement establishing the Special Court" means the Agree-

- ment between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone signed on 16 January 2002, as amended;
- ii. “The Special Court” means the Special Court for Sierra Leone established by the Agreement establishing the Special Court;
 - iii. “The Statute” means the Statute of the Special Court, annexed to the Agreement establishing the Special Court;
 - iv. “The accused” means Charles Taylor, the former President of Liberia;
 - v. “The Tribunal” means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by the Security Council pursuant to its resolutions 808 (1993) and 827 (1993);
 - vi. “The Tribunal headquarters agreement” means the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the Tribunal, signed in New York on 29 July 1994, as supplemented, attached in Annex 1;
 - vii. “The General Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946;
 - viii. “Persons performing missions for the Special Court” means persons other than the ones specifically referred to in the Agreement establishing the Special Court performing missions for the Special Court in relation to investigations, prosecutions, judicial proceedings or other official activities of the Special Court.

Article 2

Unless otherwise provided in this Agreement, the Tribunal headquarters agreement shall apply *mutatis mutandis* to the Special Court for the purpose of conducting the trial against the accused.

Article 3

1. State representatives not covered by Article 2 of this Agreement shall enjoy the same privileges and immunities as representatives of Members pursuant to Article IV of the General Convention.

2. Persons performing missions for the Special Court not covered by Article 2 of this Agreement shall, to the extent necessary for their presence at the Court in the Netherlands, enjoy the same privileges and immunities as witnesses and experts pursuant to Article XVIII of the Tribunal headquarters agreement.

Article 4

1. Privileges and immunities under this Agreement are granted in the interests of the good administration of justice and not for the personal benefit of the individuals themselves. Such privileges and immunities

may be waived in accordance with the Agreement establishing the Special Court and there is a duty to do so in any case where they would impede the course of justice and can be waived without prejudice to the purpose for which they are accorded.

2. In addition, the following rules shall apply to the Special Court concerning waiver of privileges and immunities:

a. The privileges and immunities of personnel recruited locally and not otherwise covered by this Article may be waived by the Registrar.

b. The privileges and immunities of counsel, witnesses, experts and persons performing missions for the Special Court may be waived by the President.

Article 5

1. The Kingdom of the Netherlands shall allow and facilitate the detention of the accused and other persons in the custody of the Special Court within the detention facility made available to the Special Court.

2. At the request of the Special Court the Kingdom of the Netherlands shall arrest and surrender to the Special Court any person, referred to in paragraph 1, escaped from the detention facility or during transport, under the same conditions and according to the same procedures as applicable to the Tribunal.

Article 6

Within their respective legal systems, the Special Court and the host State shall afford one another the greatest measure of assistance in connection with the trial of the accused and related trials by the host State.

Article 7

1. The Special Court shall not release the accused on the territory of the Kingdom of the Netherlands except with the latter's consent.

2. Where the accused will be released from the custody of the Special Court for any reason, the Special Court shall, as soon as possible, make such arrangements as it considers appropriate for his transfer, taking into account his views, to a State which is obliged to receive him, to another State which agrees to receive him, or to a State which has requested his extradition with the consent of the original surrendering State. In this case, the Kingdom of the Netherlands shall facilitate the transfer in accordance with this Agreement and the related arrangements.

Article 8

The Parties to this Agreement agree to consult on further practical arrangements whenever necessary.

Article 9

1. This Agreement shall be in force for a period of one year. It shall automatically be prolonged by further periods of one year, unless one Party informs the other Party by Diplomatic Note at least one month before its termination of its decision to denounce this Agreement.

2. Notwithstanding the previous paragraph, this Agreement shall cease to be in force at the date on which the trial against the accused before the Special Court has conclusively come to an end and the work of the Court in relation to this trial has been orderly terminated.

If this proposal is acceptable to the Special Court for Sierra Leone, the Ministry proposes that this note and the affirmative note of the Special Court for Sierra Leone shall constitute an Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone, which shall enter into force on the date of receipt of the affirmative note of the Special Court for Sierra Leone.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Special Court for Sierra Leone the assurances of its highest consideration.

To the Special Court for Sierra Leone
– the Registrar –

Annex 1

Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, as supplemented by

1. Exchange of Notes concluded between the Kingdom of the Netherlands and the International Criminal Tribunal for the Former Yugoslavia concerning the position of ICTY interns in the Netherlands, 15 / 19 February 2001;

2. Exchange of Notes concluded between the Kingdom of the Netherlands and the International Criminal Tribunal for the Former Yugoslavia concerning the addition of Article XV bis to the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the ICTY, regarding employment opportunities of members of the families forming part of the household of the officials of the ICTY, 20 July 2001;

3. Exchange of Notes concluded between the Kingdom of the Netherlands and the International Criminal Tribunal for the Former Yugoslavia concerning the privileges and immunities of the officials of the ICTY and their family members, 22 December 2005.

Nr. II

The Special Court for Sierra Leone
– The Registrar –

No. 1 of 2006

Freetown, 19 June 2006

The Special Court for Sierra Leone presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and has the honour to acknowledge receipt of the Ministry's note of 19 June 2006 (DJZ/VE – 262/06), which reads as follows:

(Zoals in Nr. I)

The Special Court for Sierra Leone has the honour to inform the Ministry of Foreign Affairs of the Kingdom of the Netherlands that the proposals set forth in the Ministry's note are acceptable for the Special Court for Sierra Leone and confirms that the Ministry's note and this note shall constitute an Agreement between the Special Court for Sierra Leone and the Kingdom of the Netherlands which shall enter into force on the date of receipt of the affirmative note of the Special Court for Sierra Leone.

The Special Court for Sierra Leone avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Kingdom of the Netherlands the assurances of its highest consideration.

*To the Ministry of Foreign Affairs
of the Kingdom of the Netherlands*

D. PARLEMENT

Het in de nota's vervatte Verdrag behoeft 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 nota's vervatte Verdrag zijn ingevolge het gestelde in de op één na laatste alinea van beide nota's in werking getreden op 19 juni 2006.

J. VERWIJZINGEN

- Titel : Handvest van de Verenigde Naties; San Francisco, 26 juni 1945
 Tekst : *Trb.* 1979, 37 (gewijzigde Engelse en Franse tekst)
Trb. 1987, 113 (herziene vertaling)
 Laatste *Trb.* : *Trb.* 2006, 130
- Titel : Resolutie 1688 (2006) van de Veiligheidsraad van de Verenigde Naties
 Tekst : *Trb.* 2006, 130, blz. 9 e.v.
- Titel : Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Special Court for Sierra Leone; Freetown, 16 January 2002
 Tekst : <http://www.sierra-leone.org/specialcourtagreement.html>
- Titel : Statuut van het Internationaal Joegoslavië Tribunaal
 Tekst : *Trb.* 1993, 168. Gewijzigd bij Resoluties 1329 (2000) van 30 november 2000, 1411 (2002) van 17 mei 2002, 1431 (2002) van 14 augustus 2002, 1481 (2003) van 19 mei 2003 en 1597 (2005) van 20 april 2005
- Titel : Verdrag tussen het Koninkrijk der Nederlanden en de Verenigde Naties betreffende de zetel van het Internationaal Tribunaal voor de vervolging van personen verantwoordelijk voor ernstige schendingen van het internationaal humanitair recht op het grondgebied van het voormalig Joegoslavië sedert 1991; New York, 29 juli 1994
 Tekst : *Trb.* 1994, 189 (Engels)
 Laatste *Trb.* : *Trb.* 2001, 150

- Titel : Notawisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en het Internationaal Joegoslavië Tribunaal (ICTY) inzake de positie van ICTY-stagiairs in Nederland;
's-Gravenhage, 19 februari 2001
- Tekst : *Trb.* 2001, 56 (Engels)
Trb. 2001, 84 (vertaling)
- Laatste *Trb.* : *Trb.* 2001, 139
- Titel : Notawisseling tussen de regering van het Koninkrijk der Nederlanden en het Internationaal Joegoslavië Tribunaal (ICTY) houdende een verdrag inzake de toevoeging van artikel XV bis aan het Verdrag tussen het Koninkrijk der Nederlanden en de Verenigde Naties betreffende de zetel in het ICTY van 29 juli 1994, met betrekking tot de mogelijkheid voor gezinsleden van functionarissen van het Tribunaal om in Nederland betaald werk te verrichten;
- Tekst : *Trb.* 2001, 148 (Engels)
- Titel : Notawisseling houdende een verdrag tussen het Koninkrijk der Nederlanden en het Internationaal Joegoslavië Tribunaal (ICTY) betreffende privileges en immuniteiten van het personeel van het Tribunaal en hun gezinsleden;
's-Gravenhage, 22 december 2005
- Tekst : *Trb.* 2005, 331 (Engels en Frans)
- Titel : Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties; Londen, 13 februari 1946
- Tekst : *Trb.* 1948, 224 (Engels, Frans en vertaling)
- Laatste *Trb.* : *Trb.* 1994, 210

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 Nederland op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *negentiende* juni 2006.

De Minister van Buitenlandse Zaken,

B. R. BOT