

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2007 Nr. 228

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A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en de Verenigde Naties  
betreffende de Zetel van het Speciale Tribunaal voor Libanon;  
(met brieven en verklaring)  
New York, 21 december 2007*

B. TEKST

**Agreement between the Kingdom of the Netherlands and the  
United Nations concerning the Headquarters of the Special  
Tribunal for Lebanon**

The Kingdom of the Netherlands and the United Nations,

Referring to the document annexed to Security Council resolution 1757 (2007) of 30 May 2007, entitled “the Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon”;

Whereas the Security Council acting under Chapter VII of the Charter of the United Nations decided, in operative paragraph 1, subparagraph a, of its resolution 1757 (2007), for the provisions of the document annexed to that resolution, including its attachment, to enter into force on 10 June 2007 at the latest;

Whereas the document annexed to Security Council resolution 1757 (2007), including its attachment, has entered into force on 10 June 2007;

Whereas by letter of 23 July 2007, the Secretary-General of the United Nations invited the Kingdom of the Netherlands to consider hosting the Special Tribunal for Lebanon;

Whereas the Kingdom of the Netherlands accepted to host the Special Tribunal for Lebanon;

Whereas the Government of the Lebanese Republic has expressed its gratitude to the Kingdom of the Netherlands for its willingness to host the Special Tribunal for Lebanon and has been consulted in accordance with operative paragraph 1, subparagraph b, of Security Council resolution 1757 (2007);

Whereas the Kingdom of the Netherlands and the United Nations wish to conclude an agreement to facilitate the smooth and efficient functioning of the Tribunal in the host State;

Have agreed as follows:

## PART I

### GENERAL PROVISIONS

#### Article 1

##### *Use of terms*

For the purpose of this Agreement:

- a) "Statute" means the Statute of the Special Tribunal for Lebanon as attached to the document annexed to Security Council resolution 1757 (2007);
- b) "Tribunal" means the Special Tribunal for Lebanon established by the Statute;
- c) "Secretary-General" means the Secretary-General of the United Nations;
- d) "Government of Lebanon" means the Government of the Lebanese Republic;
- e) "host State" means the Kingdom of the Netherlands;
- f) "Parties" means the United Nations and the host State;
- g) "judges" means the judges of the Tribunal appointed by the Secretary-General in accordance with article 2 of the document annexed to Security Council resolution 1757 (2007) and article 9, paragraph 3, of the Statute;
- h) "President" means the President of the Tribunal elected in accordance with article 8, paragraph 2, of the Statute;
- i) "Prosecutor" means the Prosecutor appointed by the Secretary-General in accordance with article 3, paragraph 2, of the document annexed to Security Council resolution 1757 (2007) and article 11, paragraph 3, of the Statute;
- j) "Deputy Prosecutor" means the Deputy Prosecutor appointed by the Government of Lebanon in accordance with article 3, paragraph 3, of the document annexed to Security Council resolution 1757 (2007);

k) “Registrar” means the Registrar appointed by the Secretary-General in accordance with article 4, paragraph 1, of the document annexed to Security Council resolution 1757 (2007) and article 12, paragraph 3, of the Statute;

l) “Head of the Defence Office” means the independent Head of the Defence Office appointed by the Secretary-General in accordance with article 13, paragraph 1, of the Statute;

m) “staff” means the staff recruited in accordance with the document annexed to Security Council resolution 1757 (2007) and the Statute;

n) “interns” means graduate or postgraduate students who, not being staff, have been accepted by the Tribunal into the internship programme of the Tribunal for the purpose of performing certain tasks for the Tribunal without receiving a salary from the Tribunal;

o) “witnesses”, “victims” and “experts” means persons designated as such by the Tribunal;

p) “counsel” means defence counsel and the legal representatives of victims;

q) “suspect” means a person referred to as such in the Statute;

r) “accused” means a person referred to as such in the Statute;

s) “Management Committee” means the Management Committee referred to in article 6 of the document annexed to Security Council resolution 1757 (2007);

t) “premises” means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Tribunal in the host State, in consultation with the host State, in connection with its functions and purposes, including detention of a person, or in connection with meetings of the Management Committee;

u) “Ministry of Foreign Affairs” means the Ministry of Foreign Affairs of the host State;

v) “competent authorities” means national, provincial, municipal and other competent authorities under the laws, regulations and customs of the host State;

w) “Vienna Convention” means the Vienna Convention on Diplomatic Relations of 18 April 1961;

x) “Rules of Procedure and Evidence” means the Rules of Procedure and Evidence of the Tribunal adopted in accordance with article 28 of the Statute.

## Article 2

### *Purpose and scope of this Agreement*

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of the Tribunal in the host State. It shall, inter alia, create conditions conducive to the stability and independence of the Tribunal and facilitate its smooth and efficient func-

tioning, including, in particular, its needs with regard to all persons required by the Tribunal to be present at its seat and with regard to the transfer of information, potential evidence and evidence into and out of the host State.

#### Article 3

##### *Seat of the Tribunal*

The Tribunal shall have its seat in the Netherlands.

#### PART II

#### STATUS OF THE TRIBUNAL

#### Article 4

##### *Juridical personality*

1. The Tribunal shall possess in the host State full juridical personality. This shall, in particular, include the capacity:

- a) to contract;
- b) to acquire and dispose of movable and immovable property;
- c) to institute proceedings; and
- d) to enter into agreements as may be necessary for the exercise of its functions and for the operation of the Tribunal in accordance with article 7, paragraph d, of the document annexed to Security Council resolution 1757 (2007).

2. For the purpose of this article the Tribunal shall be represented by the Registrar.

#### Article 5

##### *Privileges, immunities and facilities*

The Tribunal shall enjoy, in the territory of the host State, such privileges, immunities and facilities as are necessary for the fulfilment of its purposes.

#### Article 6

##### *Inviolability of the premises*

1. The premises shall be inviolable. The competent authorities shall ensure that the Tribunal is not dispossessed and/or deprived of all or any part of its premises without its express consent.

2. The competent authorities shall not enter the premises to perform any official duty, except with the express consent, or at the request of the Registrar, or a staff member of the Tribunal designated by him or her. Judicial actions and the service or execution of legal process, including the seizure of private property, cannot be enforced on the premises except with the consent of and in accordance with conditions approved by the Registrar.

3. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur on the premises, the consent of the Registrar, or a staff member of the Tribunal designated by him or her, to any necessary entry into the premises shall be presumed if neither of them can be contacted in time.

4. Subject to paragraphs 1, 2 and 3 of this article, the competent authorities shall take the necessary action to protect the premises against fire or other emergency.

5. The Tribunal shall prevent its premises from being used as a refuge by persons who are avoiding arrest or the proper administration of justice under any law of the host State.

#### Article 7

##### *Protection of the premises and their vicinity*

1. The competent authorities shall take all effective and adequate measures to ensure the security and protection of the Tribunal and to ensure that the tranquillity of the Tribunal is not disturbed by the intrusion of persons or groups from outside the premises or by disturbances in their immediate vicinity, and shall provide to the premises the appropriate protection as may be required.

2. If so requested by the Registrar, the competent authorities shall, in consultation with the Registrar, to the extent it is deemed necessary by the competent authorities, provide adequate protection, including police protection, for the preservation of law and order on the premises or in the immediate vicinity thereof, and for the removal of persons therefrom.

3. The competent authorities shall take all reasonable steps to ensure that the amenities of the premises are not prejudiced and that the purposes for which the premises are required are not obstructed by any use made of the land or buildings in the vicinity of the premises.

4. The Tribunal shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the premises are not prejudiced by any use made of the land or buildings in the premises.

5. The Tribunal shall provide the competent authorities with all information relevant to the security and protection of the premises.

#### Article 8

##### *Law and authority on the premises*

1. The premises shall be under the control and authority of the Tribunal, as provided in this Agreement.

2. Except as otherwise provided in this Agreement, the laws and regulations of the host State shall apply on the premises.

3. The Tribunal shall have the power to make regulations, operative within its premises, as are necessary for the carrying out of its functions. The Tribunal shall promptly inform the competent authorities upon the adoption of such regulations. No laws or regulations of the host State which are inconsistent with regulations of the Tribunal under this paragraph shall, to the extent of such inconsistency, be applicable within the premises.

4. The Tribunal may expel or exclude persons from the premises for violation of its regulations and shall inform in advance the competent authorities of such measures.

5. Subject to the regulations referred to in paragraph 3 of this article, and consistent with the laws and regulations of the host State, only staff authorized by the Registrar shall be allowed to carry arms on the premises.

6. The Registrar shall notify the host State of the name and identity of staff authorized by the Registrar to carry arms on the premises, as well as the name, type, calibre and serial number of the arm or arms at his or her disposition.

7. Any dispute between the Tribunal and the host State as to whether a regulation of the Tribunal come within the ambit of this article or as to whether a law or regulation of the host State is inconsistent with a regulation of the Tribunal under this article shall promptly be settled by the procedure set out in article 48 of this Agreement. Pending such settlement, the regulation of the Tribunal shall apply and the law or regulation of the host State shall be inapplicable on the premises to the extent that the Tribunal claims it to be inconsistent with its regulation.

## Article 9

*Public services for the premises*

1. The competent authorities shall secure, upon the request of the Registrar or a staff member of the Tribunal designated by him or her, on fair and equitable conditions, the public services needed by the Tribunal such as, but not limited to, postal, telephone, telegraphic services, any means of communication, electricity, water, gas, sewage, collection of waste, fire protection, local transportation and cleaning of public streets including snow removal.

2. In cases where the services referred to in paragraph 1 of this article are made available to the Tribunal by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest comparable rates accorded to essential agencies and organs of the host State.

3. In case of any interruption or threatened interruption of any such services, the Tribunal shall be accorded the priority given to essential agencies and organs of the host State, and the host State shall take steps accordingly to ensure that the work of the Tribunal is not prejudiced.

4. Upon request of the competent authorities, the Registrar, or staff member of the Tribunal designated by him or her, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises under conditions which shall not unreasonably disturb the carrying out of the functions of the Tribunal.

5. Underground constructions may be undertaken by the competent authorities on the premises only after consultation with the Registrar, or a staff member of the Tribunal designated by him or her, and under conditions which shall not disturb the carrying out of the functions of the Tribunal.

## Article 10

*Flag, emblem and markings*

The Tribunal shall be entitled to display its flag, emblem and markings at its premises and on vehicles and other means of transportation used for official purposes.

## Article 11

*Funds, assets and other property*

1. The Tribunal, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case the Tribunal has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

2. Funds, assets and other property of the Tribunal, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

3. To the extent necessary to carry out the functions of the Tribunal, funds, assets and other property of the Tribunal, wherever located and by whomsoever held, shall be exempt from restrictions, regulations, control or moratoria of any nature.

## Article 12

*Inviolability of archives, documents and materials*

1. The archives of the Tribunal, and all papers and documents in whatever form, and materials being sent to or from the Tribunal, held by the Tribunal or belonging to it, wherever located and by whomsoever held, shall be inviolable.

2. The termination or absence of such inviolability shall not affect protective measures that the Tribunal may order with regard to documents and material made available to or used by the Tribunal.

## Article 13

*Facilities in respect of communications*

1. The Tribunal shall enjoy in the territory of the host State for the purposes of its official communications and correspondence treatment not less favourable than that accorded by the host State to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

2. No censorship shall be applied to the official communications or correspondence of the Tribunal.

3. The Tribunal shall have the right to operate all appropriate means of communication, including electronic means of communication, and shall have the right to use codes or cipher for its official communications and correspondence. The official communications and correspondence of the Tribunal shall be inviolable.

4. The Tribunal shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall enjoy the same privileges, immunities and facilities as diplomatic couriers and bags.

5. The Tribunal shall have the right to operate radio and other telecommunication equipment on any frequencies allocated to it by the host State in accordance with its national procedures. The host State shall endeavour to allocate to the Tribunal, to the extent possible, frequencies for which it has applied.

6. For the fulfilment of its purposes and efficient discharge of its responsibilities, the Tribunal shall have the right to publish freely and without restrictions within the host State in conformity with this Agreement.

#### Article 14

##### *Freedom of financial assets from restrictions*

1. Without being subject to any financial controls, regulations, notification requirements in respect of financial transactions, or moratoria of any kind, the Tribunal may freely:

- a) purchase any currency, hold and use it;
- b) operate accounts in any currency;
- c) purchase, hold and use funds, securities and gold; and
- d) transfer its funds, securities, gold and currencies to or from the host State, to or from any other country, or within the host State and convert any currency held by it in any other currency.

2. The Tribunal shall enjoy treatment not less favourable than that accorded by the host State to any intergovernmental organization or diplomatic mission in respect of rates of exchange for its financial transactions.

## Article 15

*Exemption from taxes and duties for the Tribunal and its property*

1. Within the scope of its official activities, the Tribunal, its assets, income and other property shall be exempt from all direct taxes, whether levied by national, provincial or local authorities.

2. Within the scope of its official activities, the Tribunal shall be exempt from:

- a) import and export taxes and duties (belastingen bij invoer en uitvoer);
- b) motor vehicle tax (motorrijtuigenbelasting, MRB);
- c) tax on passenger motor vehicles and motorcycles (belasting van personenauto's en motorrijwielen, BPM);
- d) value added tax (omzetbelasting, BTW) paid on goods and services supplied on a recurring basis or involving considerable expenditure;
- e) excise duties (accijnzen) included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels;
- f) real property transfer tax (overdrachtsbelasting);
- g) insurance tax (assurantiebelasting);
- h) energy tax (regulerende energiebelasting, REB);
- i) tax on mains water (belasting op leidingwater, BOL);
- j) any other taxes and duties of a substantially similar character as the taxes provided for in this paragraph, levied in the host State subsequent to the date of signature of this Agreement.

3. The exemptions provided for in paragraph 2, subparagraphs d), e), f), g), h), i) and j) of this article may be granted by way of a refund. These exemptions shall be applied in accordance with the formal requirements of the host State. These requirements, however, shall not affect the general principles laid down in paragraph 2 of this article.

4. Goods acquired or imported under the terms set out in paragraph 2 of this article shall not be sold, let out, given away or otherwise disposed of, except in accordance with conditions agreed upon with the host State.

5. The Tribunal shall not claim exemption from taxes which are, in fact, no more than charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized.

## Article 16

*Exemption from import and export restrictions*

The Tribunal shall be exempted from all restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use and in respect of its publications.

## PART III

PRIVILEGES, IMMUNITIES AND FACILITIES ACCORDED TO  
PERSONS UNDER THIS AGREEMENT

## Article 17

*Privileges, immunities and facilities of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar and the Head of the Defence Office*

1. The judges, the Prosecutor, the Deputy Prosecutor, the Registrar and the Head of the Defence Office, together with members of their family forming part of their household who do not have Netherlands nationality or permanent residence status in the host State, shall enjoy the same privileges, immunities and facilities as are accorded by the host State to heads of diplomatic missions in conformity with the Vienna Convention. They shall, inter alia, enjoy:

- a) personal inviolability, including immunity from personal arrest or detention or any other restriction of their liberty;
- b) immunity from criminal, civil and administrative jurisdiction;
- c) inviolability of all papers, documents in whatever form and materials;
- d) exemption from national service obligations;
- e) exemption from immigration restrictions and alien registration;
- f) exemption from taxation on salaries, emoluments and allowances paid in respect of the employment of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar and the Head of the Defence Office with the Tribunal;
- g) the same facilities in respect of currency and exchange facilities as are accorded to diplomatic agents;
- h) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;
- i) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;
- j) the right of unimpeded entry into, exit from or movement within the host State, as appropriate and for purposes of the Tribunal.

2. Where the incidence of any form of taxation depends upon residence, periods during which the judges, the Prosecutor, the Deputy Pros-

ecutor, the Registrar and the Head of the Defence Office are present in the host State for the discharge of their functions shall not be considered as periods of residence.

3. The judges, the Prosecutor, the Deputy Prosecutor, the Registrar and the Head of the Defence Office shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in respect of words which had been spoken or written and acts which had been performed by them in their official capacity.

4. The host State shall not be obliged to exempt from income tax pensions or annuities paid to former judges, Prosecutors, Deputy Prosecutors, Registrars and Heads of the Defence Office and the members of their family forming part of their household.

5. Without prejudice to paragraph 2 of this article, persons referred to in this article who are nationals or permanent residents of the host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions:

a) immunity from personal arrest or detention or any other restriction of their liberty;

b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions for the Tribunal, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Tribunal;

c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Tribunal;

d) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Tribunal;

e) for the purpose of their communications with the Tribunal the right to receive and send papers in whatever form;

f) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host State.

6. Persons referred to in paragraph 6 of this article shall not be subjected by the host State to any measure which may affect the free and independent performance of their functions before the Tribunal.

#### Article 18

##### *Privileges, immunities and facilities of staff*

1. Staff shall enjoy such privileges, immunities and facilities as are necessary for the independent performance of their functions. They shall be accorded:

- a) immunity from personal arrest or detention or any other restriction of their liberty and from inspection or seizure of their official baggage;
- b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after termination of their employment with the Tribunal;
- c) inviolability of all official papers, documents in whatever form and materials;
- d) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Tribunal;
- e) exemption from national service obligations;
- f) together with members of their family forming part of their household, exemption from immigration restrictions and alien registration;
- g) the same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank of diplomatic missions established in the host State;
- h) together with members of their family forming part of their household, the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;
- i) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host State, and to re-export their furniture and effects free of duties and taxes to their country of permanent residence.

2. In addition to the privileges, immunities and facilities listed in paragraph 1 of this article, staff of a rank comparable to the United Nations P-5 level and above, together with members of their family forming part of their household who are not nationals or permanent residents of the host State, shall be accorded the same privileges, immunities and facilities as the host State accords to diplomatic agents of comparable rank of the diplomatic missions established in the host State in conformity with the Vienna Convention.

3. In addition to the privileges, immunities and facilities listed in paragraph 1 of this article, staff of a rank comparable to the United Nations P-4 level and below, together with members of their family forming part of their household who are not nationals or permanent residents of the host State, shall be accorded by the host State the same privileges, immunities and facilities as the host State accords to members of the administrative and technical staff of diplomatic missions established in the host State, in conformity with the Vienna Convention, provided that the immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties.

4. Where the incidence of any form of taxation depends upon residence, periods during which the staff are present in the host State for the discharge of their functions shall not be considered as periods of residence.

5. The host State shall not be obliged to exempt from income tax pensions or annuities paid to former staff and the members of their family forming part of their household.

6. Without prejudice to paragraph 4 of this article, persons referred to in this article who are nationals or permanent residents of the host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions:

a) immunity from personal arrest or detention or any other restriction of their liberty;

b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions for the Tribunal, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Tribunal;

c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Tribunal;

d) exemption from taxation on salaries, emoluments and allowances paid to them in respect of their employment with the Tribunal;

e) for the purposes of their communications with the Tribunal the right to receive and send papers in whatever form;

f) the right to import free of duties and taxes, except payments for services, their furniture and effects at the time of first taking up their post in the host State.

7. Persons referred to in paragraph 6 of this article shall not be subjected by the host State to any measure which may affect the free and independent performance of their functions before the Tribunal.

#### Article 19

##### *Personnel recruited locally and not otherwise covered by this Agreement*

1. Personnel recruited locally by the Tribunal and not otherwise covered by this Agreement shall be accorded immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for the Tribunal. Such immunity shall continue to be accorded even after termination of their employment with the Tribunal. During their employment, they shall also be accorded such other facilities as may be necessary for the independent performance of their functions for the Tribunal.

2. The terms and conditions of the employment of personnel recruited locally by the Tribunal and not otherwise covered by this Agreement shall be in accordance with the relevant resolutions, decisions, regulations, rules and policies of the Tribunal.

#### Article 20

##### *Employment of Family members of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff of the Tribunal*

1. Members of the family forming part of the household of a judge, Prosecutor, Deputy Prosecutor, Registrar, Head of the Defence Office or member of the staff of the Tribunal shall be authorized to engage in gainful employment in the host State for the duration of the term of office of the judge, Prosecutor, Deputy Prosecutor, Registrar, Head of the Defence Office or member of the staff of the Tribunal concerned.

2. Members of the family forming part of the household of a judge, Prosecutor, Deputy Prosecutor, Registrar, Head of the Defence Office or member of the staff of the Tribunal who obtain gainful employment shall enjoy no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment. However, any measures of execution shall be taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.

3. In case of the insolvency of a person aged under 18 with respect to a claim arising out of gainful employment of that person, the immunity of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff of whose family the person concerned is a member shall be waived for the purpose of settlement of the claim, in accordance with the provisions of article 28 of this Agreement.

4. The employment referred to in paragraph 1 of this article shall be in accordance with the legislation of the host State, including fiscal and social security legislation.

#### Article 21

##### *Interns*

1. Within eight days after the first arrival of interns in the host State the Tribunal shall request the Ministry of Foreign Affairs to register them in accordance with paragraph 2 of this article.

2. The Ministry of Foreign Affairs shall register interns for a maximum period of one year, provided that the Tribunal supplies the Ministry of Foreign Affairs with a declaration signed by them, accompanied by adequate proof, to the effect that:

a) the intern entered the host State in accordance with the applicable immigration procedures;

b) the intern has sufficient financial means for living expenses and for repatriation, as well as sufficient medical insurance (including coverage of costs of hospitalization for at least the duration of the internship plus one month) and third party liability insurance, and shall not be a charge on the public purse in the host State;

c) the intern shall not engage in gainful employment in the host State during his or her internship other than as an intern for the Tribunal;

d) the intern shall not bring any family members to reside with him or her in the host State other than in accordance with the applicable immigration procedures;

e) the intern shall leave the host State within fifteen days after the end of the internship.

3. Upon registration of the intern in accordance with paragraph 2 of this article, the Ministry of Foreign Affairs shall issue an identity card to the intern.

4. The Tribunal shall not incur liability for damage resulting from non-fulfilment of the conditions of the declaration referred to in paragraph 2 of this article by interns registered in accordance with that paragraph.

5. Interns shall not enjoy privileges, immunities and facilities, except:

a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity for the Tribunal, which immunity shall continue to be accorded even after termination of the internship with the Tribunal for activities carried out on its behalf;

b) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Tribunal.

6. The Tribunal shall notify the Ministry of Foreign Affairs of the final departure of the intern from the host State within eight days after such departure, and shall at the same time return the intern's identity card.

In exceptional circumstances the maximum period of one year mentioned in paragraph 2 of this article may be extended once by a maximum period of one year.

## Article 22

*Counsel and persons assisting counsel*

1. Counsel shall enjoy the following privileges, immunities and facilities to the extent necessary for the free and independent exercise of their functions, subject to production of the certificate referred to in paragraph 2 of this article:

a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the host State;

b) immunity from seizure of their personal baggage;

c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions;

d) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions;

e) for the purposes of communications in pursuance of their functions as counsel, the right to receive and send papers and documents in whatever form;

f) together with members of their family forming part of their household, exemption from immigration restrictions and alien registration;

g) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the host State; an inspection in such a case shall be conducted in the presence of the counsel concerned;

h) the same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

i) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Upon appointment of counsel in accordance with the Statute, the Rules of Procedure and Evidence, counsel shall be provided with a certificate by the Registrar for the period required for the performance of their functions. This certificate shall be withdrawn if the power or mandate is terminated prior to the expiry of the certificate.

3. Where the incidence of any form of taxation depends upon residence, periods during which counsel are present in the host State for the discharge of their functions shall not be considered as periods of residence.

4. Counsel who are nationals or permanent residents of the host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions before the Tribunal:

a) immunity from personal arrest or detention or any other restriction of their liberty;

b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions, which immunity shall continue to be accorded even after they have ceased to perform their functions;

c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions;

d) for the purpose of their communications with the Tribunal the right to receive and send papers in whatever form.

5. Counsel shall not be subjected by the host State to any measure which may affect the free and independent performance of their functions before the Tribunal.

6. The provisions of this article shall apply, *mutatis mutandis*, to persons assisting counsel in accordance with the Rules of Procedure and Evidence.

7. This article shall be without prejudice to such disciplinary rules as may be applicable to counsel.

#### Article 23

##### *Witnesses*

1. Witnesses shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Tribunal for purposes of giving evidence, subject to the production of the document referred to in paragraph 2 of this article:

a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the host State;

b) immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the host State;

c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their testimony, which immunity shall continue to be accorded even after their appearance and testimony before the Tribunal;

d) inviolability of all papers, documents in whatever form and materials relating to their testimony;

e) for purposes of their communications with the Tribunal and counsel in connection with their testimony, the right to receive and send papers and documents in whatever form;

f) exemption from immigration restrictions and alien registration when they travel for purposes of their testimony;

g) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention.

2. Witnesses shall be provided by the Registrar with a document certifying that their appearance is required by the Tribunal and specifying a time period during which such appearance is necessary. This document shall be withdrawn prior to its expiry if the witness's appearance before the Tribunal, or his or her presence at the seat of the Tribunal is no longer required.

3. The privileges, immunities and facilities referred to in paragraph 1 of this article shall cease to apply after fifteen consecutive days following the date on which the presence of the witness concerned is no longer required by the Tribunal, provided such witness had an opportunity to leave the host State during that period.

4. Witnesses who are nationals or permanent residents of the host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for their appearance or testimony before the Tribunal:

a) immunity from personal arrest or detention or any other restriction of their liberty;

b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance or testimony, which immunity shall continue to be accorded even after their appearance or testimony;

c) inviolability of all papers, documents in whatever form and materials relating to their appearance or testimony;

d) for the purpose of their communications with the Tribunal and with their counsel in connection with their appearance or testimony, the right to receive and send papers in whatever form.

5. Witnesses shall not be subjected by the host State to any measure which may affect their appearance or testimony before the Tribunal.

6. The Registrar shall take all necessary measures to arrange the immediate relocation to third States of witnesses who for security reasons cannot return to their home countries or their countries of permanent residence after testifying before the Tribunal.

## Article 24

*Victims*

1. Victims participating in the proceedings in accordance with article 17 of the Statute and the applicable Rules of Procedure and Evidence shall enjoy the following privileges, immunities and facilities to the extent necessary for their appearance before the Tribunal, subject to the production of the document referred to in paragraph 2 of this article:

a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the host State;

b) immunity from seizure of their personal baggage unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the host State;

c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of their appearance before the Tribunal, which immunity shall continue to be accorded even after their appearance before the Tribunal;

d) inviolability of all papers, documents in whatever form and materials relating to their participation in proceedings before the Tribunal;

e) exemption from immigration restrictions and alien registration when they travel to and from the Tribunal for purposes of their appearance.

2. Victims shall be provided by the Registrar with a document certifying their participation in the proceedings of the Tribunal and specifying a time period for that participation. Such document shall be withdrawn prior to its expiry if the victim is no longer participating in the proceedings of the Tribunal, or if the victim's presence at the seat of the Tribunal is no longer required.

3. The privileges, immunities and facilities referred to in paragraph 1 of this article shall cease to apply after fifteen consecutive days following the date on which the presence of the victim concerned is no longer required by the Tribunal, provided such victim had an opportunity to leave the host State during that period.

4. Victims who are nationals or permanent residents of the host State shall enjoy no privileges, immunities and facilities, except, to the extent necessary for their appearance before the Tribunal, immunity from legal process in respect of words spoken or written and all acts performed by them in the course of their appearance before the Tribunal, which immunity shall continue to be accorded even after their appearance before the Tribunal.

5. Victims shall not be subjected by the host State to any measure which may affect their appearance before the Tribunal.

#### Article 25

##### *Experts*

1. Experts performing functions for the Tribunal shall be accorded the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions, subject to production of the document referred to in paragraph 2 of this article:

a) immunity from personal arrest or detention or any other restriction of their liberty in respect of acts or convictions prior to their entry into the territory of the host State;

b) immunity from seizure of their personal baggage;

c) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the course of the performance of their functions for the Tribunal, which immunity shall continue to be accorded even after the termination of their functions;

d) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions for the Tribunal;

e) for the purposes of their communications with the Tribunal, the right to receive and send papers and documents in whatever form and materials relating to the performance of their functions for the Tribunal by courier or in sealed bags;

f) exemption from inspection of their personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the host State; an inspection in such a case shall be conducted in the presence of the expert concerned;

g) the same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions;

h) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;

i) exemption from immigration restrictions and alien registration in relation to their functions as specified in the document referred to in paragraph 2 of this article.

2. Experts shall be provided by the Tribunal with a document certifying that they are performing functions for the Tribunal and specifying a time period for which their functions will last. Such document shall be withdrawn prior to its expiry if the expert is no longer performing functions for the Tribunal, or if the expert's presence at the seat of the Tribunal is no longer required.

3. The privileges, immunities and facilities referred to in paragraph 1 of this article shall cease to apply after fifteen consecutive days following the date on which the presence of the expert concerned is no longer required by the Tribunal, provided such expert had an opportunity to leave the host State during that period.

4. Experts who are nationals or permanent residents of the host State shall enjoy only the following privileges, immunities and facilities to the extent necessary for the independent performance of their functions or their appearance or testimony for the Tribunal:

a) immunity from personal arrest or detention or any other restriction of their liberty;

b) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in the performance of their functions or in the course of their appearance or testimony, which immunity shall continue to be accorded even after they have ceased to perform their functions or their appearance or testimony;

c) inviolability of all papers, documents in whatever form and materials relating to the performance of their functions or their appearance or testimony;

d) for the purpose of their communications with the Tribunal the right to receive and send papers in whatever form.

5. Experts shall not be subjected by the host State to any measure which may affect the independent performance of their functions for the Tribunal.

#### Article 26

##### *Other persons required to be present at the seat of the Tribunal*

1. Other persons required to be present at the seat of the Tribunal shall, to the extent necessary for their presence at the seat of the Tribunal, be accorded the privileges, immunities and facilities provided for in article 24 of this Agreement, subject to production of the document referred to in paragraph 2 of this article.

2. Persons referred to in this article shall be provided by the Registrar with a document certifying that their presence is required at the seat of the Tribunal and specifying a time period during which such presence is necessary. Such document shall be withdrawn prior to its expiry if their presence at the seat of the Tribunal is no longer required.

3. The privileges, immunities and facilities referred to in paragraph 1 of this article shall cease to apply after fifteen consecutive days following the date on which the presence of such other person concerned is no

longer required by the Tribunal, provided that such other person had an opportunity to leave the host State during that period.

4. Persons referred to in this article who are nationals or permanent residents of the host State shall enjoy no privileges, immunities and facilities, except, to the extent necessary for their presence at the seat of the Tribunal, immunity from legal process in respect of words spoken or written and all acts performed by them in the course of their presence at the seat of the Tribunal. Such immunity shall continue to be accorded even after their presence at the seat of the Tribunal is no longer required.

5. Persons referred to in this article shall not be subjected by the host State to any measures which may affect their presence before the Tribunal.

#### Article 27

##### *Representatives of States participating in meetings of the Management Committee*

Representatives of States participating in meetings of the Management Committee, shall while exercising their functions and during the journey to and from the host State, enjoy the privileges and immunities provided for in Article IV of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

#### PART IV

#### WAIVER OF PRIVILEGES AND IMMUNITIES

#### Article 28

##### *Waiver of privileges, immunities and facilities provided for in articles 17, 18, 19, 21, 22, 23, 24, 25 and 26*

The privileges, immunities and facilities provided for in articles 17, 18, 19, 21, 22, 23, 24, 25, and 26 of this Agreement are granted in the interests of the Tribunal and not for the personal benefit of the persons themselves. The right and duty to waive the immunity in any case where it can be waived without prejudice to the purpose for which it is accorded shall lie:

a) as concerns the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office, and members of their family forming part of the household, with the Secretary-General in consultation with the President;

b) as concerns staff, personnel recruited locally, interns, and members of their family forming part of the household, with the Registrar;

c) as concerns witnesses, victims, experts, other persons required to be present at the seat of the Tribunal, counsel, persons assisting counsel, and members of their family forming part of the household, with the President.

## PART V

### COOPERATION BETWEEN THE TRIBUNAL AND THE HOST STATE

#### SECTION 1:

#### GENERAL

#### Article 29

##### *General cooperation between the Tribunal and the host State*

1. Whenever this Agreement imposes obligations on the competent authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government of the host State.

2. The host State shall promptly inform the Tribunal of the office designated to serve as the official contact point and to be primarily responsible for all matters in relation to this Agreement, as well as of any subsequent changes in this regard.

3. The Registrar, or a staff member of the Tribunal designated by him or her, shall serve as the official contact point for the host State, and shall be primarily responsible for all matters in relation to this Agreement. The host State shall be informed promptly about this designation and of any subsequent changes in this regard.

#### Article 30

##### *Cooperation with the competent authorities*

1. The Tribunal shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, the enforcement of the laws of the host State, to secure the observance of police regulations and to prevent the occurrence of any abuse in connection with the privileges, immunities and facilities accorded under this Agreement.

2. The Tribunal and the host State shall cooperate on security matters, taking into account the public order and national security of the host State.

3. Without prejudice to their privileges, immunities and facilities, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws and regulations of the host State. They also have the duty not to interfere in the internal affairs of the host State.

4. The Tribunal shall cooperate with the competent authorities responsible for health, safety at work, electronic communications and fire prevention.

5. The Tribunal shall observe all security directives as agreed with the host State, as well as all directives of the competent authorities responsible for fire prevention regulations.

6. The host State will use its best efforts to notify the Tribunal of any proposed or enacted national laws and regulations having a direct impact on the privileges, immunities, facilities, rights and obligations of the Tribunal and the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff. The Tribunal shall have the right to provide observations as to proposed national laws and regulations.

#### Article 31

##### *Notification*

1. The Registrar shall promptly notify the host State of:

a) the appointment of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff, the date of their arrival and their final departure or the termination of their functions with the Tribunal;

b) the arrival and final departure date of members of the family forming part of the household of the persons referred to in subparagraph 1a) of this article and, where appropriate, the fact that a person has ceased to form part of the household;

c) the arrival and final departure date of private or domestic servants of persons referred to in subparagraph 1a) of this article and, where appropriate, the fact that they are leaving the employ of such persons.

2. The host State shall issue to the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff and to members of their family forming part of their household and to private or domestic servants an identity card bearing the photograph of the holder. This card shall serve to identify the holder in relation to the competent authorities.

3. At the final departure of the persons referred to in paragraph 2 of this article or when these persons have ceased to perform their functions,

the identity card referred to in paragraph 2 of this article shall be promptly returned by the Tribunal to the Ministry of Foreign Affairs.

#### Article 32

##### *Social security regime*

1. If the social security system of the Tribunal offers coverage comparable to the coverage under the legislation of the host State, the Tribunal and the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff to whom the aforementioned scheme applies shall be exempt from social security provisions of the host State. Consequently, they shall not be covered against the risks described in the social security provisions of the host State. This exemption applies to them, unless they take up gainful activity in the host State.

2. Paragraph 1 of this article shall apply, *mutatis mutandis*, to members of the family forming part of the household of the persons referred to in paragraph 1, unless they are engaged in gainful employment in the host State, or are self-employed, or receive social security benefits from the host State.

#### SECTION 2:

##### VISAS, PERMITS AND OTHER DOCUMENTS

#### Article 33

##### *Visas for the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office, staff, counsel and persons assisting counsel*

1. The judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office, staff, counsel and persons assisting counsel, as notified as such by the Registrar to the host State, shall have the right of unimpeded entry into, exit from and movement within the host State including unimpeded access to the premises.

2. Visas, where required, shall be granted free of charge and as promptly as possible.

3. Applications for visas where required from members of the family forming part of the household of the persons referred to in paragraph 1 of this article shall be processed by the host State as promptly as possible and granted free of charge.

## Article 34

*Visas for witnesses, victims, experts, interns, and other persons required to be present at the seat of the Tribunal*

1. All persons referred to in articles 21, 23, 24, 25 and 26 of this Agreement, as notified as such by the Registrar to the host State, shall have the right of unimpeded entry into, exit from and, subject to paragraph 3 of this article, movement within the host State, as appropriate and for the purposes of the Tribunal.
2. Visas, where required, shall be granted free of charge and as promptly as possible. The same facilities shall be accorded to persons accompanying witnesses and victims, who have been notified as such by the Registrar to the host State.
3. The host State may attach such conditions or restrictions to the visa as may be necessary to prevent violations of its public order or to protect the safety of the person concerned.
4. Before applying paragraph 3 of this article, the host State will seek observations from the Tribunal.

## Article 35

*Visas for visitors of persons detained by the Tribunal*

1. The host State shall make adequate arrangements by which visas for visitors of persons detained by the Tribunal are processed promptly. Visas for visitors who are family members of a person detained by the Tribunal shall be processed promptly and may be issued, where appropriate, free of charge or for a reduced fee.
2. Visas for the visitors referred to in paragraph 1 of this article may be subjected to territorial limitations. Visas may be refused in the event that:
  - a) the visitors referred to in paragraph 1 of this article cannot produce documents justifying the purpose and conditions of the intended stay and demonstrating that they have sufficient means of subsistence, both for the period of the intended stay and for the return to the country of origin or transfer to a third State into which they are certain to be admitted, or that they are in a position to acquire such means lawfully;
  - b) an alert has been issued against them for the purpose of refusing entry; or
  - c) they must be considered a threat to public order, national security or the international relations of any of the Contracting Parties to the Convention implementing the Schengen Agreement of 14 June 1985

between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the Gradual Abolition of Checks at their Common Borders.

3. The host State may attach such conditions or restrictions to the visa as may be necessary to prevent violations of its public order or to protect the safety of the person concerned.

4. Before applying paragraph 2 or 3 of this article, the host State will seek observations from the Tribunal.

#### Article 36

##### *Laissez-passer*

The host State shall recognize and accept the United Nations laissez-passer as a valid travel document.

#### Article 37

##### *Driving licence*

During their period of employment, the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff, members of their family forming part of their household and their private or domestic servants shall be allowed to obtain from the host State a driving licence on presentation of their valid foreign driving licence or to continue to drive using their own valid foreign driving licence, provided the holder is in possession of an identity card issued by the host State in accordance with article 31 of this Agreement.

#### SECTION 3:

##### SECURITY, OPERATIONAL ASSISTANCE

#### Article 38

##### *Security, safety and protection of persons referred to in this Agreement*

1. Without prejudice to their privileges, immunities and facilities, the competent authorities shall take effective and adequate action which may be required to ensure the security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Tribunal, free from interference of any kind.

2. The Tribunal shall cooperate with the competent authorities to ensure that all persons referred to in this Agreement observe the directives necessary for their security and safety, as given to them by the competent authorities.

3. Without prejudice to their privileges, immunities and facilities, it is the duty of all persons referred to in this Agreement to observe the directives necessary for their security and safety, as given to them by the competent authorities.

#### Article 39

##### *Transport of persons in custody*

1. The transport, pursuant to the Statute and the Rules of Procedure and Evidence, of a person in custody from the point of arrival in the host State to the premises shall, at the request of the Tribunal, be carried out by the competent authorities in consultation with the Tribunal.

2. The transport, pursuant to the Statute and the Rules of Procedure and Evidence, of a person in custody from the premises to the point of departure from the host State shall, at the request of the Tribunal, be carried out by the competent authorities in consultation with the Tribunal.

3. Any transport of persons in custody in the host State outside the premises shall, at the request of the Tribunal, be carried out by the competent authorities in consultation with the Tribunal.

4. The Tribunal shall give reasonable notice to the competent authorities of the arrival of persons referred to in this article. Whenever possible, 72 hours' advance notice will be given.

5. Where the host State receives a request under this article and identifies problems in relation to the execution of the request, it shall consult with the Tribunal, without delay, in order to resolve the matter. Such problems may include, inter alia,

- a) insufficient time and/or information to execute the request;
- b) the impossibility, despite best efforts, to make adequate security arrangements for the transport of the persons;
- c) the existence of a threat to public order and security in the host State.

6. A person in custody shall be transported directly and without impediment to the destination specified in paragraphs 1 and 2 of this article or to any other destination as requested by the Tribunal under paragraph 3 of this article.

7. The Tribunal and the host State shall, as appropriate, make practical arrangements for the transport of persons in custody in accordance with this article.

#### Article 40

##### *Transport of persons appearing before the Tribunal on a basis other than a warrant of arrest*

1. The provisions of article 39 of this Agreement shall apply, mutatis mutandis, to the transport of persons appearing before the Tribunal pursuant to such orders other than a warrant for arrest.

2. If the Tribunal issues any order other than a warrant of arrest in order to secure the appearance of a person before the Tribunal, the host State reserves the right to take any measures necessary to protect the public order and national security.

#### Article 41

##### *Cooperation in detention matters*

1. The host State shall cooperate with the Tribunal to facilitate the detention of persons and to allow the Tribunal to perform its functions within its detention centre.

2. Where the presence of a person in custody is required for the purpose of giving testimony or other assistance to the Tribunal and where, for security reasons, such a person cannot be maintained in custody in the detention centre of the Tribunal, the Tribunal and the host State shall consult and, where necessary, make arrangements to transport the person to a prison facility or other place made available by the host State.

#### Article 42

##### *Provisional release*

1. The host State shall facilitate the transfer of persons granted provisional release into a State other than the host State.

2. The host State shall facilitate the re-entry into the host State of persons granted provisional release and their short-term stay in the host State for any purpose related to proceedings before the Tribunal.

3. The Tribunal and the host State shall make practical arrangements as to the implementation of this article.

## Article 43

*Release without conviction*

1. Where a person surrendered to the Tribunal is released from the custody of the Tribunal because the Tribunal does not have jurisdiction, the case is inadmissible, the charges have not been confirmed, the person has been acquitted at trial or on appeal, or for any other reason, the Tribunal shall, as soon as possible, make such arrangements as it considers appropriate for the transfer of the person, taking into account the views of the person, to a State which is obliged to receive him or her, to another State which agrees to receive him or her, or to a State which has requested his or her extradition with the consent of the original surrendering State.

2. The provisions of article 39 of this Agreement shall apply, mutatis mutandis, to the transport of persons referred to in this article within the host State.

3. The Tribunal shall not release a person referred to in this article on the territory of the host State except with the latter's consent.

## Article 44

*Enforcement of sentences*

1. Imprisonment shall be served in a State designated by the President of the Special Tribunal from a list of States that have indicated their willingness to accept persons convicted by the Tribunal.

2. The President shall begin the process of designating a State of enforcement as soon as possible, based on the list referred to above, with a view to the immediate transfer of the convicted person for the purpose of serving a sentence of imprisonment imposed by the Tribunal.

3. The host State shall be under no obligation to let persons convicted by the Tribunal serve their sentence of imprisonment in a prison facility on its territory.

## Article 45

*Limitation to the exercise of jurisdiction by the host State*

1. The host State shall not exercise its jurisdiction or proceed with a request for assistance or extradition from another State with regard to persons surrendered to the Tribunal, persons granted provisional release or persons who appear before the Tribunal voluntarily or pursuant to a

summons, for any acts, omissions or convictions prior to the surrender, the transfer or the appearance before the Tribunal except as may be provided for in the Rules of Procedure and Evidence.

2. Where a person referred to in paragraph 1 of this article is, for any reason, released from the custody of the Tribunal without conviction, that paragraph shall continue to apply for a period of fifteen consecutive days from the date of his or her release.

## PART VI

### FINAL PROVISIONS

#### Article 46

##### *Supplementary arrangements and agreements*

The Tribunal and the host State may, for the purpose of implementing this Agreement or of addressing matters not foreseen in this Agreement, make other supplementary agreements and arrangements as appropriate.

#### Article 47

##### *Settlement of disputes with third Parties*

The Tribunal shall make provisions for appropriate modes of settlement of:

- a) disputes arising out of contracts and other disputes of a private-law character to which the Tribunal is a party;
- b) disputes involving any person referred to in this Agreement who, by reason of his or her official position or function in connection with the Tribunal, enjoys immunity, if such immunity has not been waived.

#### Article 48

##### *Settlement of differences on the interpretation or application of this Agreement or supplementary arrangements or agreements*

1. All differences arising out of the interpretation or application of this Agreement or supplementary arrangements or agreements between the Tribunal and the host State shall be settled by consultation, negotiation or other agreed mode of settlement.

2. If the difference is not settled in accordance with paragraph 1 of this article within three months following a written request by one of the

Parties to the difference, it shall, at the request of either party, be referred to an arbitral tribunal according to the procedure set forth in paragraphs 3 to 5 of this article.

3. The arbitral tribunal shall be composed of three members: one to be chosen by each party and the third, who shall be the chairman of the arbitral tribunal, to be chosen by the other two members. If either party has failed to make its appointment of a member of the arbitral tribunal within two months of the appointment of a member by the other party, that other party may invite the President of the International Court of Justice to make such appointment. Should the first two members fail to agree upon the appointment of the chairman of the tribunal within two months following their appointment, either party may invite the President of the International Court of Justice to choose the chairman.

4. Unless the Tribunal and the host State otherwise agree, the arbitral tribunal shall determine its own procedure and the expenses shall be borne by the Tribunal and the host State as assessed by the arbitral tribunal.

5. The arbitral tribunal, which shall decide by a majority of votes, shall reach a decision on the difference on the basis of the provisions of this Agreement and subsequent arrangements or agreements and the applicable rules of international law. The decision of the arbitral tribunal shall be final and binding on the Tribunal and the host State.

#### Article 49

##### *Application*

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

#### Article 50

##### *Amendments and termination*

1. This Agreement may be amended by mutual consent of the Parties.

2. This Agreement shall cease to be in force if the seat of the Tribunal is removed from the territory of the host State or if the Tribunal is dissolved, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Tribunal at its seat in the host State and the disposition of its property therein, as well as provisions granting immunity from legal process of every kind in respect of words spoken or written or acts done in an official capacity.

3. The provisions relating to the inviolability of the funds, assets, archives and documents of the Tribunal, shall survive termination of this Agreement.

4. The host State shall be notified in a timely manner with respect to the dissolution of the Tribunal.

#### Article 51

##### *Entry into force*

1. The provisions of this Agreement shall be applied provisionally as from the date of signature.

2. This Agreement shall enter into force on the first day of the second month after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with.

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

DONE at New York on 21 December 2007 in duplicate, in the English language.

*For the Kingdom of the Netherlands,*

FRANK MAJOUR

*For the United Nations,*

LARRY D. JOHNSON

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Ter gelegenheid van de ondertekening van het onderhavige Verdrag zijn eveneens brieven gewisseld. De tekst van die brieven luidt als volgt:

**Nr I**

PERMANENT REPRESENTATION OF THE KINGDOM OF THE  
NETHERLANDS TO THE UNITED NATIONS  
The Ambassador

New York, 21 December 2007

NYV/2007/3766

On the occasion of the signing of the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the Special Tribunal for Lebanon, I would like to refer to the discussions held between representatives of the United Nations and the Netherlands concerning the interpretation of certain provisions of the Agreement.

I have the honour to confirm on behalf of the Government of the Netherlands the following understandings.

With respect to article 8, paragraph 4, it is the understanding of the Parties that the Tribunal will use its best efforts to notify the competent authorities in advance of any exclusion or expulsion of persons from its premises, which, however, may not always be possible due to exigencies. In the latter circumstances the Tribunal will notify the competent authorities of the expulsion or exclusion without delay.

With respect to article 11 it is the understanding of the Parties that the vehicles of the Tribunal will be entitled to “diplomatic corps” plates and corresponding status. Vehicles of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff will be entitled to plates in accordance with the practice of the host State and their status as specified in the Agreement.

With respect to article 13, paragraph 5, it is the understanding of the Parties that that this paragraph extends to communications between Tribunal offices, installations, facilities and means of transport, within and outside the host State, in particular with Tribunal offices in Lebanon and the United States of America.

With respect to article 15 it is the understanding of the Parties that the value-added tax paid in respect of goods supplied or services rendered to the Tribunal will be refunded to the Tribunal on application. The tax on hydrocarbons such as fuel oil and motor fuels which the Tribunal

requires for official purposes will be refunded to the Tribunal on application. The Tribunal will be exempted at the time of purchase from excise duties on goods supplied and required for official purposes, purchased from a 'accijnsgoederenplaats', if a permit thereto is acquired from the national tax Authority. The Tribunal will submit applications for reimbursement within three months after the quarter of the calendar year during which payment was made for goods supplied or services rendered and will send the relevant documents together with the applications to the national tax authority. The Tribunal undertakes to facilitate the verification by the competent authorities of the facts on which the tax exemption or tax refund can be based. Reimbursement of the above-mentioned taxes and duties will be done in conformity with the applicable tax regulations and quotas set by the Government.

In addition, both Parties understand the reference to "general principles" in article 15, paragraph 3, to refer back to the exemptions provided for in article 15, paragraph 2.

It is the understanding of the Parties that during their term of office, the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, and staff are exempted from taxation in the host State under article 17, paragraphs 1 and 2, and article 18, paragraphs 1, 2 and 3. Article 17, paragraph 3, and article 18, paragraph 4, specify that periods during which these persons are present in the host State for the discharge of their functions "shall not be considered as periods of residence". These two provisions are not designed to create tax exemptions in addition to the exemptions under article 17, paragraphs 1 and 2, and article 18, paragraphs 1, 2 and 3. They clarify that, in situations where the judges, the Prosecutor, the Deputy Prosecutor, the Registrar or staff maintain residence in the host State after the expiry of their term of office, no taxes will be due in relation to exemptions which were applicable during the period in which these persons held office.

With respect to article 17, paragraph 4, according to which the "host State shall not be obliged to exempt from income tax pensions or annuities paid to former judges, Prosecutors, Deputy Prosecutors, and Registrars and their members of the family forming part of their household", it is understood by both Parties that former judges, Prosecutors, Deputy Prosecutors, and Registrars and their members of the family forming part of their household would only be subject to taxation by the host State if, upon expiry of their respective terms of office, they reside in the territory of the host State or are nationals of the host State. This explanation also applies, *mutatis mutandis*, to article 18, paragraph 5, which contains a provision similar to article 17, paragraph 4, with respect to former staff and their members of the family forming part of their household.

It is the understanding of the Parties that article 19, paragraph 2, concerns the internal rules and regulations of the Tribunal and that these rules and regulations do not concern the granting of privileges and immunities by the host State to personnel referred to in article 19.

It is the understanding of the Parties that a procedure will be drawn up by the Registrar in which it will be ensured that the document mentioned in article 23, paragraph 2, will be handed over to the witness as soon as possible, at the latest upon arrival in the host State.

Both Parties understand that article 24 applies also to victims participating in proceedings for reparation.

It is the understanding of the Parties that if the Tribunal makes use of gratis personnel, this personnel will be considered experts under article 25.

With respect to article 28, it is the understanding of the Parties that Representatives of States participating in meetings of the Management Committee are, while exercising their functions and during the journey to and from the host State, to be regarded as falling within the ambit of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and that their privileges and immunities will be waived in accordance with Section 14 of the Convention.

With respect to article 32, it is the understanding of the Parties that the social security regime will be established in consultation with the competent authorities of the host State.

With respect to article 35, both Parties understand that visas will be issued in accordance with the laws of the host State. It is also the understanding of both Parties that in exceptional cases, such as where the applicant is unable to pay, visas for visitors who are family members of a detained person, will, at the discretion of the competent authorities of the host State, be issued free of charge or for a reduced fee.

With respect to article 39, paragraph 6, it is the understanding of both Parties that this paragraph ensures that the transport of persons in custody of the Tribunal for purposes of the Tribunal will not be delayed by any impediment, such as the immigration and asylum procedures of the host State. The asylum law and procedures of the host State require that asylum seekers apply for asylum in person at an asylum seeker centre within the host State. As this procedure would hamper the immediate transport of the person for purposes of the Tribunal, its application would be undesirable in this context. It is understood that paragraph 6 does not deny a person in custody of the Tribunal the ability to apply for asylum or another legal basis to remain in the Netherlands under the

laws of the host State at a time other than during transport. The term “transport” in this article refers to the transportation of a person within the territory of the host State. The term “transfer” in this article refers to the transportation of a person from one State to another.

Article 42 addresses the issue of provisional release. Both Parties decided to regulate in this Agreement only those aspects relating to provisional release into a State other than the host State. This is reflected in the language of article 42, paragraph 1. The Agreement does not address the conditions and modalities of provisional release into the host State, because provisional release into the host State is not foreseen.

Article 42, paragraph 2, governs the re-entry into the host State of persons granted provisional release. The practice of the International Criminal Tribunal for the former Yugoslavia (ICTY) has shown that there may be situations in which persons granted provisional release may need to return to the host State for purposes related to proceedings before the Tribunal. Paragraph 2 clarifies that the host State will facilitate the transfer of such persons. The host State has entered into an arrangement to that effect with the ICTY, by way of an exchange of letters of December 2003, which governs “short-term stays on Dutch soil” of persons granted provisional release by the ICTY. Paragraph 3 of this article provides a basis for both Parties to conclude such and other types of practical arrangements concerning the implementation of article 42.

Without prejudice to the rules and regulations of the Tribunal, it is the understanding of the Parties that the following persons will, for the purposes of this Agreement, and this Agreement only, be considered as members of the family forming part of the household of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff:

- a) spouses of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff;
- b) children of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff who are under the age of 18;
- c) children of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff aged 18 or over, but not older than 27, provided that they formed part of the household prior to their first entry into the host State and still form part of this household, and that they are unmarried, financially dependent on the judge, Prosecutor, Deputy Prosecutor, Registrar, Head of the Defence Office or member of the staff of the Tribunal concerned and are attending full time education in the host State;
- d) children of judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff who are aged 18 or over, but not older than 23, will also be recognized as members of the family

forming part of the household if they are not studying as long as they are unmarried and financially dependent on the judge, Prosecutor, Deputy Prosecutor, Registrar, Head of the Defence Office or member of the staff of the Tribunal concerned;

e) other persons who, in exceptional cases or for humanitarian reasons, the Tribunal and the host State decide to treat as members of the family forming part of the household.

It is the understanding of the Parties that any issues arising from the foregoing understanding will be resolved by the Registrar and the competent authorities of the host State on a case-by-case basis.

In conformity with the practice that has developed, with respect to representatives of independent bodies of counsel or legal associations, media and non-governmental organizations in connection with the International Criminal Tribunal for the former Yugoslavia and the Special Court for Sierra Leone, the host State will use its best efforts to: a) facilitate the entry into and stay in the host State of such representatives, deployed in, or visiting the host State in connection with activities relating to the Tribunal; and, b) where appropriate and in consultation with the Tribunal, the possible extension of visa while in the host State.

I should be grateful if you could confirm on behalf of the United Nations that the above is also the understanding of the United Nations.

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

FRANK MAJOOR

*H.E. Mr. Nicolas Michel  
Under-Secretary-General*

*The Legal Counsel  
United Nations Headquarters  
Room 3427A  
New York, NY 10017  
United States of America*

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## Nr II

## UNITED NATIONS HEADQUARTERS

New York, 21 December 2007

Excellency,

I have the honour to acknowledge receipt of your letter of 21 December 2007, in which you set out your Government's understandings regarding the joint interpretation of certain provisions of the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon.

In accordance with your request, I wish to confirm, on behalf of the United Nations, that the understandings reflected in your letter confirm with those of the United Nations.

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

Yours sincerely,

LARRY D. JOHNSON  
Assistant Secretary-General  
in charge of the Office of Legal  
Affairs

*H.E. Ambassador Frank Majoor  
Permanent Representative of the Kingdom of the Netherlands to the  
United Nations  
New York*

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Ter gelegenheid van de ondertekening van het onderhavige Verdrag en het wisselen van de hierboven geplaatste briefwisseling is door Nederland een verklaring afgelegd. De tekst van die verklaring luidt als volgt:

PERMANENT REPRESENTATION OF THE KINGDOM OF THE  
NETHERLANDS TO THE UNITED NATIONS

The Ambassador

New York, 21 December 2007

NYV/2007/3766

On the occasion of the signing of the Agreement between the Kingdom of the Netherlands and the United Nations concerning the Headquarters of the Special Tribunal for Lebanon, the Government of the Netherlands would like to refer the Exchange of Letters concerning the understandings regarding the joint interpretation of certain provisions in that Agreement.

The Government of the Netherlands would like to clarify that it will interpret the notion of 'spouses of the judges, the Prosecutor, the Deputy Prosecutor, the Registrar, the Head of the Defence Office and staff' to include 'registrered partners' recognized as such under the laws and regulations of the Netherlands.

Please accept, Excellency, the assurances of my highest consideration,

FRANK MAJOOR

*H.E. Mr. Nicolas Michel  
Under-Secretary-General*

*The Legal Counsel  
United Nations Headquarters  
Room 3427A  
New York, NY 10017*

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D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

F. VOORLOPIGE TOEPASSING

Het Verdrag wordt ingevolge artikel 51, eerste lid, vanaf 21 december 2007 voorlopig toegepast.

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

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 51, tweede lid, in werking treden op de eerste dag van de tweede maand nadat beide partijen elkaarschriftelijk hebben medegedeeld dat aan de wettelijke formaliteiten voor de inwerkingtreding is voldaan.

J. VERWIJZINGEN

- Titel : Handvest van de Verenigde Naties;  
San Francisco, 26 juni 1945
- Tekst : *Trb.* 1945, 253 (Engels)  
*Trb.* 1945, 321 (vertaling)
- Laatste *Trb.* : *Trb.* 2007, 50
- Titel : Verdrag nopens de voorrechten en immuniteiten van de  
Verenigde Naties;  
Londen, 13 februari 1946
- Tekst : *Trb.* 1947, 452 (Engels en Frans)  
*Trb.* 1948, 224 (vertaling)
- Laatste *Trb.* : *Trb.* 1994, 210
- 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 : Akkoord tussen de Staten van de Benelux Economi-  
sche Unie, van de Bondsrepubliek Duitsland en van de  
Franse Republiek betreffende de geleidelijke afschaf-  
fing van de controles aan de gemeenschappelijke  
grenzen;  
Schengen, 14 juni 1985
- Tekst : *Trb.* 1985, 102 (Nederlands)
- Laatste *Trb.* : *Trb.* 1997, 121

Titel : Statuut van het Internationaal Gerechtshof;  
San Francisco, 26 juni 1945  
Tekst : *Trb.* 1945, 321 (Engels en vertaling)  
*Trb.* 1987, 114 (herziene vertaling)  
Laatste *Trb.* : *Trb.* 1997, 106

Uitgegeven de *eenentwintigste* december 2007.

*De Minister van Buitenlandse Zaken,*

M. J. M. VERHAGEN