

No. 7920

NETHERLANDS
and
SUPREME HEADQUARTERS
ALLIED POWERS EUROPE

Agreement on the special conditions applicable to the establishment and operation of International Military Headquarters within the European territory of the Kingdom of the Netherlands (with related letters). Signed at Paris, on 25 May 1964

Official texts of the Agreement: Dutch, English and French.

Official text of the letters: English.

Registered by the Netherlands on 15 September 1965.

PAYS-BAS
et
QUARTIER GÉNÉRAL SUPRÊME
DÈS FORCES ALLIÉES EN EUROPE

Accord au sujet des conditions particulières d'installation et de fonctionnement des Quartiers généraux militaires internationaux sur le territoire européen du Royaume des Pays-Bas (avec lettres connexes). Signé à Paris, le 25 mai 1964

Textes officiels de l'Accord: néerlandais, anglais et français.

Texte officiel des lettres: anglais.

Enregistré par les Pays-Bas le 15 septembre 1965.

No. 7920. AGREEMENT¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE SUPREME HEADQUARTERS ALLIED POWERS EUROPE ON THE SPECIAL CONDITIONS APPLICABLE TO THE ESTABLISHMENT AND OPERATION OF INTERNATIONAL MILITARY HEADQUARTERS WITHIN THE EUROPEAN TERRITORY OF THE KINGDOM OF THE NETHERLANDS. SIGNED AT PARIS, ON 25 MAY 1964

The Kingdom of the Netherlands and the Supreme Headquarters Allied Powers Europe, represented by the Supreme Allied Commander Europe,

Considering that

1. the relations between the Parties to the North Atlantic Treaty² and International Military Headquarters have been generally described in the Protocol signed in Paris on 28 August 1952³ to the Agreement concluded in London on 19 June 1951⁴ by the Parties to the North Atlantic Treaty regarding the status of their forces, and that
2. the North Atlantic Council, in accordance with paragraph 1 of Article 14 of the above-mentioned Protocol, declared said Protocol applicable to the SHAPE Technical Centre by a decision of 20 February, 1963, but that
3. certain provisions should still be elaborated regarding the establishment and operation of International Military Headquarters that have been or may be set up within the European territory of the Kingdom of the Netherlands,

Have agreed as follows :

Article I

DEFINITIONS

In the present Agreement :

1. the abbreviation "SHAPE" shall mean Supreme Headquarters Allied Powers Europe;

¹ Applied provisionally as from 25 May 1964, the date of signature, and entered into force definitively on 13 April 1965, the date on which Supreme Headquarters Allied Powers Europe was notified by the Government of the Netherlands that the conditions constitutionally required for its entry into force had been fulfilled in the Netherlands, in accordance with article XIII.

² United Nations, *Treaty Series*, Vol. 34, p. 243; Vol. 126, p. 350, and Vol. 243, p. 308.

³ United Nations, *Treaty Series*, Vol. 200, p. 340.

⁴ United Nations, *Treaty Series*, Vol. 199, p. 67; Vol. 200, p. 340; Vol. 260, p. 452; Vol. 286, p. 380, and Vol. 481, p. 588.

2. the abbreviation "SACEUR" shall mean Supreme Allied Commander Europe;
3. "Allied Headquarters" shall mean any International Military Headquarters immediately subordinate to SHAPE and any other International Military Headquarters or Organization subordinate to SHAPE to which Article 14 of the Protocol may be declared applicable by the North Atlantic Council;
4. "Agreement" shall mean the Agreement concluded in London on June 19, 1951 by the Parties to the North Atlantic Treaty regarding the Status of their Forces;
5. "Protocol" shall mean the Protocol on the status of International Military Headquarters set up pursuant to the North Atlantic Treaty, signed in Paris on 28 August 1952.

Article II

LOCATION OF ALLIED HEADQUARTERS

The peacetime location in the European territory of the Kingdom of the Netherlands of the various sections of Allied Headquarters and any change in such location shall be decided upon by arrangement between the Netherlands Government and SHAPE.

Article III

PERSONNEL STRENGTH OF ALLIED HEADQUARTERS

(1) SACEUR shall inform the Netherlands Government of the personnel strength of Allied Headquarters within Netherlands territory on the date of the entry into force of

- a. the present Agreement, and
- b. arrangements, referred to in Article II above.

(2) SACEUR is authorized to increase the number of personnel of any Allied Headquarters up to a maximum of 10 % above the original strength referred to in the previous paragraph and shall report the total strengths of the Allied Headquarters to the Netherlands Government periodically.

(3) Should a proposed increase mean exceeding the 10 % maximum, SACEUR shall not implement the increase before he has obtained the approval of the Netherlands Government to a new percentage within the limits of which the existing number may be increased.

Article IV

LEGAL CAPACITY

The legal capacity attributed to SHAPE by Article 10 of the Protocol shall, as regards either SHAPE itself or any Allied Headquarters within the European territory of the Kingdom of the Netherlands, be exercised by SACEUR or by a subordinate authority appointed by him to act in his name and on his behalf.

Article V

REPRESENTATION IN LAW

When so requested, the Netherlands Government may consent to act on behalf of SHAPE in any legal proceedings in which an Allied Headquarters is involved before a Netherlands court. SHAPE shall reimburse the Netherlands Government for any expenditure thus incurred.

Article VI

INVIOABILITY OF PREMISES

(1) Persons who on the strength of a Netherlands legal provision are authorized to enter a place against the tenant's wishes shall not enter the premises of an Allied Headquarters without the consent of its Commander or Director.

(2) Such consent shall be granted immediately to persons who have written authorization to enter the premises from the Public Prosecutor ("Procureur-Generaal") in the Court of Appeal ("Gerechtshof") within the jurisdiction of which the building is located.

(3) Nothing in this Article shall infringe either the inviolability of archives and other official documents or the procedures of verification as laid down in Article 13 of the Protocol.

Article VII

IMMUNITIES

(1) The Netherlands Government shall accord to military as well as to civilian personnel of other than Netherlands nationality holding interallied positions of high responsibility for the duration of their mission immunity from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority. This immunity is not accorded for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the North Atlantic Treaty.

(2) The Netherlands Government shall, in agreement with SHAPE, specify the functions for which said immunity shall be granted.

(3) The Secretary-General of NATO has the right and the duty to waive the immunity of any of the abovementioned persons in any case where, in his opinion, the immunity would impede the course of justice and could be waived without prejudice to the interest of the Allied Headquarters.

(4) If the immunity is not waived, the Secretary-General of NATO shall use his best endeavours to bring about a just settlement of any claims.

(5) The Secretary-General of NATO and SACEUR shall at all times collaborate with the Netherlands authorities with a view to facilitating the administration of justice, to assuring due observance of police regulations and to avoiding every excess to which the privileges and immunities mentioned above might give rise.

Article VIII

TAXES AND DUTIES

(1) To give effect to Article 8, paragraph 1, of the Protocol the Netherlands Government shall grant Allied Headquarters relief from Netherlands taxes and duties in so far as such taxes and duties are readily identifiable to the extent and in the manner prescribed below.

(2) The relief from tax and duty granted on expenditure made by Allied Headquarters in the Netherlands in respect of equipment, materials, facilities and services acquired in the interest of common defence and for their official and exclusive benefit shall, with due regard to paragraph 1 of this Article, apply to :

- a. turnover tax, and
- b. import tax and duty,

in so far as such relief would be granted if the goods in question were exported from the Netherlands, whether they are in fact exported or retained in the Netherlands.

(3) (a) With regard to payments made under contracts concluded with Netherlands suppliers and financed directly by an Allied Headquarters, the tax and duty relief granted under the present Agreement shall be effected in such manner that payments by the Allied Headquarters under such contracts shall be net of the duties and taxes specified in paragraph 2.

(b) With respect to payments, made by the Netherlands Government acting as purchasing agent for SHAPE, that are to be either wholly or partially reimbursed by SHAPE, such reimbursement shall not include the duty and tax specified in paragraph 2.

(4) Should any Netherlands tax or duty not specifically referred to in the present Agreement be payable on expenditures envisaged in the present Agreement, the two Parties shall confer to decide whether relief from such taxes and duties would be consistent with the principles underlying this Agreement. If it is, the two Parties will arrange procedures for providing relief from such taxes and duties.

(5) Military as well as civilian personnel of other than Netherlands nationality holding interallied positions of high responsibility and designated by the Netherlands Government in accordance with Article VII of the present Agreement :

- a.* may obtain goods intended for their official use tax and duty free with due observance of the provisions and the restrictions to be laid down by the Netherlands Government;
- b.* shall be accorded the same facilities in respect of their personal baggage as are accorded to members of the diplomatic corps.

Article IX

COMMUNICATIONS

(1) Unless otherwise provided for in this Article, an Allied Headquarters shall use the public telecommunications systems of the Kingdom of the Netherlands. Excepting any other arrangements provided for in the present Agreement, such use shall be subject to the Netherlands regulations in force at the time. In the application of said regulations, the treatment given to the Allied Headquarters shall not be less favourable than that given to the Netherlands Armed Forces.

(2) As and when required for military purposes, an Allied Headquarters shall be allowed to set up, operate and maintain :

- a* wire telecommunications facilities inside and outside the premises occupied by it;
- b.* radio installations,

in accordance with approved NATO procedures, bilateral agreements and regulations applicable to the Netherlands Armed Forces.

(3) The through-connection of telecommunications facilities, established by an Allied Headquarters, with the public network of the Kingdom of the Netherlands shall be subject to the approval of the Netherlands Postal and Telecommunications Services (PTT); the criteria to be applied shall not be less favourable than those applied to the Netherlands Armed Forces.

(4) An Allied Headquarters and the Netherlands Military Authorities concerned shall conclude detailed arrangements on the establishment, operation and maintenance of telecommunications facilities.

(5) All services rendered by the Netherlands Government shall be charged for in accordance with NATO agreements and with the regulations and rates applicable to the Netherlands Armed Forces.

Article X

CONTRACTS FOR SERVICES

If an Allied Headquarters wishes to employ staff not enjoying international status at local wage rates, provisions regarding Netherlands social security regulations shall be arranged between the Netherlands Government and SHAPE.

Article XI

SUSPENSION IN THE EVENT OF HOSTILITIES

The present Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty is applicable. However, either Party to the present Agreement has the right to suspend, so far as it is concerned, the application of any provision of the present Agreement by giving 60 days' notice to the other Party. If that right is exercised, the two Parties shall immediately consult one another with a view to agreeing on suitable provisions to replace the suspended provisions.

Article XII

SETTLEMENT OF DISPUTES

All differences between the Parties relating to the interpretation or application of the present Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the Agreement or in the Protocol, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

Article XIII

ENTRY INTO FORCE

The present Agreement shall be applied provisionally as from the date of its signature and shall enter into force definitively on the day on which SHAPE has been notified by the Government of the Kingdom of the Netherlands that the conditions constitutionally required for its entry into force have been fulfilled in the Netherlands.

Article XIV

DURATION AND REVISION

(1) The present Agreement shall remain in force as long as the Protocol remains effective with respect to the Kingdom of the Netherlands.

(2) It may be revised by mutual agreement at the request of either Party.

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

DONE at Paris on the 25th May 1964, in duplicate, in the English, Dutch and French languages, the English text being authoritative in cases of disagreement.

For the Kingdom of the Netherlands :

(*Signed*) H. N. BOON

For the Supreme Headquarters Allied Powers Europe :

(*Signed*) L. L. LEMNITZER

RELATED LETTERS

I

No. 3744

Paris, May 25th, 1964

My dear General,

With reference to the Agreement between the Government of the Kingdom of the Netherlands and the Supreme Headquarters Allied Powers Europe on the special conditions applicable to the establishment and operation of International Military Headquarters within the European territory of the Kingdom of the Netherlands, which was signed today, and in connection with paragraph 2 of article VI of this Agreement concerning the inviolability of premises, I have the honour to inform you that the Public Prosecutor (*Procureur Generaal*) in the Court of Appeal (*Gerechtshof*) within the jurisdiction of which the premises of an Allied Headquarters are located shall give written authorisation to enter these premises without the consent of the commander or director in exceptional cases only.

(*Signed*) H. N. BOON

Permanent Representative of the Netherlands
to the North Atlantic Council

General Lyman L. Lemnitzer
Supreme Allied Commander Europe
SHAPE
Paris

II

No. 3743

Paris, May 25th, 1964

My dear General,

With reference to article VII, para 2 of the Agreement between the Kingdom of the Netherlands and the Supreme Headquarters Allied Powers Europe on the special conditions applicable to the establishment and operation of International Military Headquarters within the European territory of the Kingdom of the Netherlands, which was signed to-day, I have the honour to inform you that the Netherlands Government at this moment intend to grant the immunity mentioned in article VII, para 1 of said Agreement to the director and the deputy director of the SHAPE Technical Centre.

I shall appreciate it if you will let me know whether you can agree to this proposal.

(Signed) H. N. BOON
Permanent Representative of the Netherlands
to the North Atlantic Council

General Lyman L. Lemnitzer
Supreme Allied Commander Europe
SHAPE
Paris

III

SUPREME HEADQUARTERS ALLIED POWERS EUROPE

25 May 1964

Dear Mr. Ambassador,

In reply to your letter of 25 May 1964 concerning Article VII (paragraph 2) of the Agreement between the Kingdom of the Netherlands and the Supreme Headquarters Allied Powers Europe on the establishment and operation of international military headquarters in the Netherlands, which was signed today, I agree to the proposal of the Netherlands Government whereby, at this time, the immunity mentioned in the said Article shall be granted to the Director and Deputy Director of the SHAPE Technical Centre.

Sincerely,

(Signed) L. L. LEMNITZER
General, U.S. Army
Supreme Allied Commander

His Excellency Dr. H. N. Boon
The Netherlands Permanent Representative
to the North Atlantic Council
North Atlantic Treaty Organization
Paris 16, France