

No. 114

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**INTERNATIONAL COURT OF JUSTICE**  
and  
**THE NETHERLANDS**

**Exchange of letters recording an agreement relating to privileges and immunities of members of the International Court of Justice, the Registrar, officials of the Registry, assessors, the agents and counsel of the parties and of witnesses and experts. The Hague, 26 June 1946**

*French official text. The registration ex officio, by the Secretariat of the United Nations took place on 1 October 1947.*

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**COUR INTERNATIONALE DE JUSTICE**  
et  
**PAYS-BAS**

**Echange de lettres constatant un accord se rapportant aux privilèges et immunités des membres de la Cour internationale de Justice, du Greffier, des fonctionnaires du Greffe, des assesseurs, des agents et conseils des parties, ainsi que des témoins et experts. La Haye, le 26 juin 1946**

*Texte officiel français. L'enregistrement d'office par le Secrétariat de l'Organisation des Nations a eu lieu le 1er octobre 1947.*

## TRANSLATION — TRADUCTION

No. 114. EXCHANGE OF LETTERS RECORDING AN AGREEMENT<sup>1</sup> BETWEEN THE INTERNATIONAL COURT OF JUSTICE AND THE NETHERLANDS RELATING TO PRIVILEGES AND IMMUNITIES OF MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE, THE REGISTRAR, OFFICIALS OF THE REGISTRY, ASSESSORS, THE AGENTS AND COUNSEL OF THE PARTIES AND OF WITNESSES AND EXPERTS. THE HAGUE, 26 JUNE 1946

## No. 1

LETTER FROM THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE  
TO THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

The Hague, 26 June 1946

Monsieur le Ministre,

As Your Excellency is aware, the General Assembly of the United Nations, on 19 January 1946, instructed its Sixth Committee to consider the question of the privileges, immunities and facilities to be granted to the United Nations. In accordance with these instructions, the Sixth Committee prepared a number of draft resolutions. One of these relates to the adoption of a General Convention containing an Article V, in which the privileges, immunities, exemptions and facilities to be enjoyed as a general rule by the officials of the Organization are set out.

As regards the International Court of Justice, the Sixth Committee devoted to it a special resolution. After considering the question of the privileges and immunities to be accorded to members of the Court, to the Registrar and the Court's staff, and to the agents, counsel and advocates of the parties, the resolution recommended that, to ensure that the Court shall enjoy the privileges, immunities and facilities necessary for the exercise of its functions and the fulfilment of its purpose, in the country of its seat and elsewhere, the Court shall make recommendations, to be forwarded to the Secretary-General.

The Assembly's reason for dealing separately with the case of the International Court of Justice and for asking it to formulate proposals was that the Court's Statute, which is annexed to, and forms an integral part of, the Charter, provides

<sup>1</sup> Came into force on 11 December 1946, date of approval by the General Assembly (resolution 90 (I)).

in Article 19, that, when engaged on the business of the Court the members of the Court shall enjoy diplomatic privileges; while Article 42 lays down that the agents, counsel and advocates of the parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties. Another reason was, doubtless, that the Court is an organism whose members with their small staff, perform duties of a special character and whose requirements are consequently different from those of the other organs of the United Nations.

In any case, as regards Netherlands territory, negotiations have taken place between representatives of the Netherlands Foreign Ministry and representatives of the Court, with a view to giving effect in the most satisfactory way possible to the above mentioned Assembly resolution. In accordance with the excellent relations that have always existed between international judicial bodies and the Government of the Netherlands, these conversations led to an agreement on the general principles that should govern the matter.

Those principles are set out in the appendix to the present note. In communicating this document to Your Excellency, I have the honour to ask you to confirm that its content is in accordance with the agreement reached.

I would add the following: In the report in which the Court forwards its recommendations on privileges and immunities, the Secretary-General is requested to ask the General Assembly to declare the agreement reached between the Netherlands Government and the Court to be satisfactory. Special mention is made of the traditional liberality of the Netherlands in this matter.

On the other hand, I trust that you will agree with me that the question of precedence, formerly dealt with in paragraph IV of the General Principles annexed to the letters exchanged on 22 May 1928, between the President of the Permanent Court of International Justice and the Netherlands Minister for Foreign Affairs, remains outside the present agreement. I should be grateful if you would confirm your agreement on this point.

(Signed) J. G. GUERRERO

President of the International Court of Justice

## APPENDIX

1. As concerns the privileges, immunities, facilities and prerogatives, within the territory of the Netherlands, of members and staff of the International Court of Justice of other than Dutch nationality:

(a) The members of the Court will, in a general way, be accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands.

As regards the privileges, immunities and facilities above-mentioned, this provision applies also to the Registrar of the Court and to the Deputy Registrar when acting for the Registrar.

(b) The Deputy Registrar of the Court will, in a general way, be accorded the same treatment as counsellors attached to diplomatic missions at The Hague.

The higher officials of the Court—first secretaries and secretaries—will, in a general way, be accorded the same treatment as secretaries attached to diplomatic missions at The Hague.

(c) The other officials of the Court will be treated as officials of comparable rank attached to diplomatic missions at The Hague.

2. Members of the Court, the Registrar and higher officials of the Court who are of Netherlands nationality are not answerable to the local jurisdiction for acts performed by them in their official capacity and within the limits of their duties.

Netherlands nationals of whatever rank are exempt from direct taxation on the salaries allotted to them from the Court's budget.

3. The wives and unmarried children of members of the Court, the Registrar and the higher officials of the Court, when of non-Netherlands nationality shall receive the same treatment as the head of the family, if they live with him and are without profession. The household of the family (governesses, private secretaries, servants, et cetera) occupy the same position as is accorded in each case to the domestic staff of diplomatic persons of comparable rank.

4. Privileges and immunities are granted in the interests of the administration of international justice and not in the personal interest of the beneficiary.

As concerns officials of the Registry, the Registrar, with the President's approval, may withdraw their immunities, with due regard to the principle laid down in the previous paragraph. In the case of the Registrar, this duty shall rest with the Court.

5. The assessors of the Court and the agents, counsel and advocates of the Parties, shall be accorded such privileges, immunities and facilities for residence and travel as may be required for the independent exercise of their functions.

Witnesses and experts shall be accorded the immunities and facilities necessary for the fulfilment of their mission.

## No. 2

LETTER FROM THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS  
TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

The Hague, 26 June 1946

Monsieur le Président,

I have the honour to acknowledge receipt of Your Excellency's letter of 26 June, in which you draw my attention to the resolution of the Sixth Committee of the United Nations General Assembly, concerning privileges and immunities to be granted to the International Court of Justice.

I was much pleased to note that Your Excellency was good enough to mention that the conversations that took place between representatives of the Court and representatives of my Ministry were marked by a continuance of the excellent relations that prevail by tradition between international judicial organizations and Her Majesty's Government, and I hasten to assure Your Excellency that Her Majesty's Government also has a happy recollection of the relations that existed between it and the Permanent Court of International Justice.

In accordance with Your Excellency's request, I wish to confirm that the Appendix attached to your above-mentioned letter fully corresponds to the agreement reached during the conversations and exactly reproduces the Netherlands Government's views on the subject.

I note with much satisfaction that in the report in which the Court forwards its recommendations concerning privileges and immunities—requesting the Secretary-General of the United Nations to beg the General Assembly to declare the agreement reached between the Netherlands Government and the Court entirely satisfactory—special mention is made of the liberal traditions of the Netherlands in this matter.

With reference to the last paragraph of Your Excellency's letter above-mentioned, I beg to confirm that it is understood that the question of precedence formerly dealt with in paragraph IV of the General Principles attached to the letters exchanged between the President of the Permanent Court of International Justice and the Netherlands Minister for Foreign Affairs, dated 22 May 1928, remains outside the present Agreement.

(Signed) J. H. VAN ROIJEN  
Minister for Foreign Affairs