

**No. 53892\***

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**United Nations  
and  
Netherlands (for the European part of the Netherlands)**

**Agreement between the Kingdom of the Netherlands and the United Nations concerning the headquarters of the International residual mechanism for criminal tribunals (with exchange of letters). New York, 23 February 2015**

**Entry into force:** *1 September 2016, in accordance with article 48*

**Authentic text:** *English*

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**Organisation des Nations Unies  
et  
Pays-Bas (pour la partie européenne des Pays-Bas)**

**Accord entre le Royaume des Pays-Bas et les Nations Unies relatif au siège du mécanisme international appelé à exercer les fonctions résiduelles des tribunaux pénaux (avec échange de lettres). New York, 23 février 2015**

**Entrée en vigueur :** *1<sup>er</sup> septembre 2016, conformément à l'article 48*

**Texte authentique :** *anglais*

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## **Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals**

Whereas the Security Council of the United Nations acting under Chapter VII of the Charter of the United Nations decided by its resolution 1966 (2010) adopted on 22 December 2010 to establish the International Residual Mechanism for Criminal Tribunals with two branches, one for the International Criminal Tribunal for Rwanda (ICTR) and the other for the International Tribunal for the former Yugoslavia (ICTY);

Whereas the International Residual Mechanism for Criminal Tribunals is established as a subsidiary organ within the terms of Article 29 of the Charter of the United Nations;

Whereas Article 3 of the Statute of the International Residual Mechanism for Criminal Tribunals, Annex 1 to Security Council resolution 1966 (2010), provides that the branch for the ICTR shall have its seat in Arusha and the branch for the ICTY shall have its seat in The Hague;

Whereas the Security Council, by resolution 1966 (2010), decided that the determination of the seats of the branches of the Mechanism is subject to the conclusion of appropriate arrangements between the United Nations and the host countries of the branches of the Mechanism acceptable to the Security Council;

Whereas the United Nations and the Kingdom of the Netherlands wish to conclude an agreement to facilitate the smooth and efficient functioning of the International Residual Mechanism for Criminal Tribunals in the Kingdom of the Netherlands;

The United Nations and the Kingdom of the Netherlands have agreed as follows:

### **PART I. GENERAL PROVISIONS**

#### **Article 1. Use of terms**

For the purpose of this Agreement:

- a) “accused” means a person referred to as such in the Statute;
- b) “competent authorities” means national, provincial, municipal and other competent authorities under the laws, regulations and customs of the host State;
- c) “defence counsel” means a person admitted as counsel by the Mechanism;
- d) “experts on mission for the Mechanism” means those persons, other than officials of the Mechanism, who perform missions for the Mechanism;

- e) “General Convention” means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946, to which the Kingdom of the Netherlands acceded on 19 April 1948;
- f) “host State” means the Kingdom of the Netherlands;
- g) “ICTR” means the International Criminal Tribunal for Rwanda, established by the Security Council pursuant to its resolution 955 (1994);
- h) “ICTY” means the International Tribunal for the former Yugoslavia, established by the Security Council pursuant to its resolutions 808 (1993) and 827 (1993);
- i) “interns” means graduate or postgraduate students or young professionals who, not being staff of the Mechanism, have been accepted by the Mechanism into the internship or fellowship programme of the Mechanism for the purpose of performing certain tasks for the Mechanism without receiving a salary from the Mechanism;
- j) “judges” means the judges of the Mechanism elected or appointed in accordance with Article 10 of the Statute;
- k) “Mechanism” means the International Residual Mechanism for Criminal Tribunals, established by the Security Council pursuant to its resolution 1966 (2010);
- l) “Ministry of Foreign Affairs” means the Ministry of Foreign Affairs of the host State;
- m) “officials of the Mechanism” means the President, the judges, the Prosecutor, the Registrar and the staff of the Mechanism;
- n) “Parties” means the United Nations and the host State;
- o) “premises” means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Mechanism in the host State in consultation with the host State, in connection with its functions and purposes, including detention of a person;
- p) “President” means the President of the Mechanism appointed by the Secretary-General in accordance with Article 11, paragraph 1, of the Statute;
- q) “Prosecutor” means the Prosecutor of the Mechanism appointed by the Security Council in accordance with Article 14, paragraph 4, of the Statute;

- r) “Registrar” means the Registrar of the Mechanism appointed by the Secretary-General in accordance with Article 15, paragraph 3, of the Statute;
- s) “Resolution 1966” means Security Council resolution 1966 (2010) adopted on 22 December 2010, which established the Mechanism;
- t) “Rules of Procedure and Evidence” means the Rules of Procedure and Evidence of the Mechanism adopted in accordance with Article 13 of the Statute;
- u) “Secretary-General” means the Secretary-General of the United Nations;
- v) “staff of the Mechanism” means the staff of the Registry as referred to in Article 15, paragraph 4, of the Statute and the staff of the Office of the Prosecutor as referred to in Article 14, paragraph 5, of the Statute;
- w) “Statute” means the Statute of the International Residual Mechanism for Criminal Tribunals, as annexed to Security Council resolution 1966 (2010);
- x) “Vienna Convention” means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961, to which the Kingdom of the Netherlands acceded on 7 September 1984; and
- y) “witnesses” means persons designated as such by the Mechanism.

## **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 Mechanism in the host State. It shall, *inter alia*, create conditions conducive to the stability and independence of the Mechanism and facilitate its smooth and efficient functioning, including, in particular, its needs with regard to all persons required by the Mechanism 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, and the preservation of and access to its archives.

## **PART II. STATUS OF THE MECHANISM**

### **Article 3. Juridical personality**

1. The Mechanism shall possess full juridical personality in the host State. This shall, in particular, include the capacity:
  - a) to contract;
  - b) to acquire and dispose of movable and immovable property; and
  - c) to institute legal proceedings.

2. For the purposes of this Article, the Mechanism shall be represented by the Registrar.

#### **Article 4. Privileges, immunities and facilities**

1. The Mechanism shall enjoy, in the territory of the host State, such privileges, immunities and facilities as are necessary for the fulfilment of its purposes.
2. The General Convention shall apply to the Mechanism and the archives of the Mechanism, the ICTY and the ICTR.

#### **Article 5. Inviolability of the premises**

1. The premises shall be inviolable. The competent authorities shall ensure that the Mechanism 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 an official 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, or an official designated by him or her.
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 an official 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 Mechanism 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 6. 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 Mechanism and to ensure that the tranquillity of the Mechanism is not disturbed by the intrusion of persons or groups from outside the premises or by disturbances in its immediate vicinity, and shall provide to the premises the appropriate protection as may be required.