

Bijlage bij het verslag van de technische briefing dd 28 juli 2014

Tijdens de technische briefing over de stand van zaken ramp MH17 is het onderstaande document uitgereikt:

De voorzitter: Mevrouw Gerards heeft nog even het woord gevraagd voor een aanvulling.

Mevrouw Gerards: Wij hebben net bericht uit Kiev gekregen dat het verdrag met Oekraïne is getekend. De ratificatie is voor donderdag aanstaande voorzien. Het verdrag wordt de Kamer per brief aangeboden en het wordt gepubliceerd in het Tractatenblad. Ik heb zelfs de nummers er al bij gekregen. Ik zal de tekst hier achterlaten. De handtekeningen staan er nog niet onder, maar de tekst is identiek aan de getekende versie. Dit stuk kan helpen bij de voorbereiding van het algemeen overleg van morgen.

Wellicht ten overvloede zeg ik nogmaals dat het verdrag een formele basis biedt voor de eventuele aanwezigheid van bewapend personeel op Oekraïens grondgebied.

Dit document is hierna bijgevoegd

**Agreement
between Ukraine and the Kingdom of the Netherlands
on the International Mission for Protection of Investigation**

Ukraine, hereinafter referred to as “the Receiving State”

and

the Kingdom of the Netherlands, hereinafter referred to as “the Sending State”

collectively referred to as “the Parties”;

having regard to the provisions of UN Security Council Resolution 2166 of 21 July 2014;

taking into account the Memorandum of Understanding signed on 24 July 2014 between the Minister for Foreign Affairs of Ukraine and the Minister of Foreign Affairs of the Kingdom of the Netherlands Concerning the Investigations Regarding the Accident of the Downing of a Civilian Aircraft, Malaysian Airlines Flight MH 17 on July 17, 2014;

Have agreed the following:

Article 1

1.1 The multinational International Mission for Protection of Investigation (hereinafter referred to as the Mission) led by the Sending State shall be established to facilitate the recovery of remains and the conduct of the investigation called for in United Nations Security Council Resolution 2166 of 21 July 2014, and other activities as may be agreed between the Parties.

1.2 The Mission shall consist of military and non-military personnel from the Sending State and Australia and other States whose nationals were on flight MH17 as appropriate.

1.3 The Mission shall be composed of up to 700 armed personnel.

1.4 The Mission shall have freedom of movement within Ukraine to travel to areas relevant to the investigation of the aircraft crash. The Mission shall seek the consent of Ukraine for any travel to areas not relevant to the investigation of the aircraft crash.

1.5 While staying in the territory of Ukraine the Mission shall be subordinated to the Head of the International Mission for Protection of Investigation to be appointed by the Sending State (hereinafter referred to as the Head of Mission).

1.6 It is the duty of the Mission to respect the law of the Receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the Receiving State.

1.7 The Mission will maintain contact with all parties, including with the OSCE Special Monitoring Mission which, in order to fulfill its tasks, establishes contact with local, regional and national authorities, civil society, ethnic and religious groups, and members of the local population in accordance with its mandate as long as applicable.

1.8 Activities of the Mission on the territory of the Receiving State shall be completed simultaneously with the completion of the activities referred to in paragraph 1 of this Article or as otherwise agreed between the Parties.

Article 2

2.1 Weapons, equipment, ground and air vehicles, fuel and oil, materials and other products for use by the Mission personnel shall be temporarily imported into the territory of the Receiving State free of duties.

2.2 Technical details of the Mission logistics support shall be determined by the competent authorities of the Parties.

2.3 Logistics and financial support of the Mission shall be provided by the Sending State.

Article 3

3.1 The Mission personnel shall be allowed to possess and carry weapons and to use force in self-defense and for fulfillment of its activities under this Agreement.

Article 4

4.1 During its stay on the territory of the Receiving State the Mission shall be allowed to use public bases, training centers, training grounds and other facilities of the Receiving State upon agreement between the Head of Mission and the entities of the Receiving State responsible for the administration of such facilities.

4.2 Amounts and procedure of payment of the rent of land, other real estate, including residential and other facilities, as well as fees for the use of water, use of airspace of Ukraine, air-navigation, and information support, providing municipal, domestic and other services shall be determined between the Sending State and entities of the Receiving State responsible for the administration of such objects or providing such services.

Article 5

5.1 The Parties will waive all claims against each other arising out of activities under this Agreement. Claims arising out of acts or omissions of the Mission personnel in relation to activities under this Agreement, and causing damage, injury or death in Ukraine to third parties will be dealt with and met by Ukraine in accordance with its national laws, regulations and policies. Claims not arising out of activities under this Agreement will be settled as mutually determined by the Parties.

Article 6

6.1 Personnel of the Mission shall be accorded the status equivalent to that accorded to the administrative and technical staff of a diplomatic mission of a state that is a party to the Vienna Convention on Diplomatic Relations of 18 April 1961.

Article 7

7.1 The Mission personnel shall be allowed to wear field uniforms for the purposes of the activities under this Agreement.

Article 8

8.1 Settlement of all disputes between the Parties concerning the interpretation and application of this Agreement shall be resolved through consultations and negotiations.

Article 9

9.1 This Agreement is without prejudice to any obligations between Receiving State and other States participating in the Mission taken under the International Law.

Article 10

10.1 This Agreement shall enter into force on the date of receipt by the Sending State of the diplomatic notification of completion by the Receiving State of its internal procedures necessary for the Agreement to enter into force, for the duration of one year.

10.2 Each Party may terminate this Agreement by written notification to the other Party regarding such intent not less than 30 days before the envisaged date of the termination of this Agreement.

10.3 Upon written consent of the Parties this Agreement may be amended in the form of protocols to this Agreement which shall constitute an integral part of this Agreement.

Done at Kyiv on “____” July 2014, in two originals, each in Ukrainian and English, with both texts being equally authentic.

For Ukraine

For the Kingdom of the Netherlands

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE MINISTER OF FOREIGN AFFAIRS OF THE KINGDOM OF THE NETHERLANDS

AND

THE MINISTER FOR FOREIGN AFFAIRS OF UKRAINE

CONCERNING THE INVESTIGATIONS REGARDING THE ACCIDENT OF THE DOWNING OF CIVILIAN
AIRCRAFT, MALAYSIAN AIRLINES FLIGHT MH 17 ON JULY 17, 2014.

THE MINISTER OF FOREIGN AFFAIRS OF THE KINGDOM OF THE NETHERLANDS

AND

THE MINISTER FOR FOREIGN AFFAIRS OF UKRAINE

Hereinafter referred to as "Participants",

In their common aim to ensure that the investigations regarding the accident of the downing of civilian aircraft, Malaysian airlines, flight MH 17 on July 17 2014 will be conducted with the maximum impartiality and objectivity that will meet the expectations of the international community.

Have decided that the following arrangements will apply:

1. Taking into consideration that the overwhelming majority of the victims of the accident are citizens of the Kingdom of the Netherlands, Ukraine, as the State of Occurrence, will delegate investigation into the accident to the Netherlands through a legally binding agreement between the Ukrainian National Bureau for Accidents and Incidents investigation with Civil aircraft and the Dutch Safety Board on delegation of investigation in respect of aircraft accident involving Boeing 777-200, "Malaysia Airlines" flight MH17.
2. The Participants will cooperate to the fullest extent possible in returning the victims of the accident to the Netherlands. Ukraine will facilitate the transfer of the remains of the deceased and where possible of their personal effects. The Netherlands, as the Investigating State, will arrange for complete examination of the fatally injured passengers and crew on evidence related to the causes of the crash by experts experienced in accident investigation. The examinations will be expeditious and complete.
3. The Netherlands will coordinate the investigation into the circumstances of the accident and will be responsible for the conduct of the investigation in line with the provisions of Chapter 5 of Annex 13 to the Chicago Convention. The Netherlands will ensure the participation of other parties concerned, in particular Ukraine as the State of Occurrence, Malaysia as the State of Registry, the United States of America as State of Manufacture and the International Civil Aviation Organization (ICAO). The Netherlands will communicate the report and findings to the concerned states. Ukraine will use every means available to facilitate the investigation.

4. The Participants will make every effort to ensure that the Implementation of the cooperation under this Memorandum of Understanding is executed fairly and expeditiously and to coordinate and to cooperate with related agencies in order to ensure the effective and efficient achievement of the objective of the cooperation.
5. The Participants are in full understanding that further arrangements may be made on specific issues related to the Investigation.
6. Final Provisions

This Memorandum of Understanding will come into effect upon signature.

This Memorandum of Understanding does not create any rights or obligations under international law.

Done in duplicate in Kyiv on 24 July 2014 in the English language,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Frans Timmermans,
Minister of Foreign Affairs of the Kingdom of the Netherlands

Pavlo Klimkin,
Minister for Foreign Affairs of Ukraine

A handwritten signature in black ink, featuring a large, sweeping oval loop followed by several vertical strokes.