

## Ministry of Foreign Affairs

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Re Repatriation mission in Ukraine

The air disaster involving Malaysia Airlines flight MH17 on Thursday 17 July 2014 claimed the lives of 298 innocent men, women and children of eleven different nationalities, including 194 Dutch nationals. Many people in the Netherlands and elsewhere in the world have been deeply moved by the fate of the passengers of MH17 and the sufferings of their families and friends.

The bodies of the majority of the victims have now been transferred to the Netherlands where they have been received with dignity and respect. In this letter we will inform you of the efforts being made to bring the remaining bodies and personal belongings back to the Netherlands as soon as possible. This is the government's top priority. It is a matter of national and international importance that the bodies of the victims of this disaster are repatriated and handed over to their families, without irresponsible risks being taken at the crash site.

In response to the disaster the UN Security Council adopted Resolution S/RES/2166(2014), which emphasises among other things the importance of unrestricted, safe and secure access to the crash site, calls on all states and actors in the region to cooperate fully in relation to the independent international investigation of the incident, and insists on the respectful and professional treatment and recovery of the bodies of the victims.

In accordance with the rules of the International Civil Aviation Authority (ICAO), the Ukrainian authorities are responsible for the independent investigation of the cause of the disaster. They have formally transferred this responsibility to the Netherlands. The Memorandum of Understanding (MoU) to this effect was signed on 24 July. The government attaches great importance to a thorough and independent investigation. The Dutch Safety Board (OvV) is conducting this investigation and has assembled an international team for this purpose. The OvV is independent and makes its own decisions regarding any technical investigations at the crash site into the

circumstances of the disaster. These matters fall outside the remit of the repatriation mission and are not addressed in this letter. The same is true of the criminal investigations being carried out by the Public Prosecution Service.

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All options for transferring the victims' bodies as quickly and as safely as possible from the crash site to the Netherlands have been studied in detail and discussed with international partners over the past few days. The area is controlled by heavily armed separatists and is a short distance from the Russian border.

It is not realistic to expect an international mission to gain military ascendancy in this area, even with a massive deployment of military personnel. There is also a genuine risk that an international mission of this kind could become directly involved in the conflict in Ukraine, thereby giving it an international dimension, which could easily lead to further escalation. The success of the repatriation mission therefore depends on avoiding escalation of the situation in the area in question. The smaller the chance of escalation as a result of the mission, the greater the chance that its work can be done quickly and fully. The government has therefore decided to maintain the current character of the commitment on the ground and at the same time to intensify this approach, assessing from day to day what is feasible given the security situation in the area surrounding the crash site. In view of this approach and this objective, the 'article 100 procedure' of the Dutch constitution does not apply.

In order to operate effectively and safely in the area, a degree of coordination with the separatists is indispensable. The pro-Russian separatists have heavy weaponry at their disposal. There is a significant surface-to-air threat in the east of Ukraine. This means that in any scenario, even if the mission were scaled up and acquired a more robust character, we would be reliant on the cooperation of the separatists in searching for and recovering the victims' remains.

Twenty-three experts from the National Forensic Investigation Team (LTFO) and 40 officers of the Royal Netherlands Marechaussee (KMar) travelled to Ukraine on Friday 25 July. Their task is to search for any remaining bodies and victims' personal belongings. They are unarmed in order to ensure that they can gain access to the crash site as quickly as possible. Activities are being closely coordinated with Australia and Malaysia. Australia has sent a planning team to the Netherlands. There are currently 63 Dutch personnel in Ukraine. This capacity will be increased in stages. The Netherlands can provide another 60 LTFO experts and 60 KMar officers at short notice. If necessary, the number of 100 KMar officers can be increased by a further 100. Australia currently has 50 police officers in Ukraine, to which number it could add another 100. Malaysia is sending 68 police officers.

The Organization for Security and Co-operation in Europe has been active in Ukraine since March 2014 with a Special Monitoring Mission (SMM), aimed at contributing to the reduction of tensions. The SMM has a good insight into the security situation in the area and maintains close ties with the authorities at all levels, civil society, ethnic and religious groups and local communities. In addition, the mission gathers information and reports on the security situation. It also reports on specific incidents. Although the SMM provides relevant information about the situation in the area, it is not in a position to provide protection in the event of violent incidents. The OSCE has no mandate to use force and its monitors are unarmed.

From the outset, the SMM has played a crucial role in gaining access to the crash site for international experts and relief workers. The OSCE agreed with the

separatists on 26 July that the Dutch experts could travel to the crash site as quickly as possible to carry out their work. During the discussions the separatists also agreed to the proposed expansion of the deployment. Talks with the separatists about the Dutch government's wish that Dutch officers carry handguns with a view to their personal security are ongoing. Dutch personnel will work side-by-side with the SMM.

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Twenty-seven Dutch and 11 Australian experts travelled to Donetsk on 27 July accompanied by the OSCE. The plan now is for the ongoing activities to be gradually intensified and given more structure. The number of officials in Ukraine will be further increased with personnel from the LTFO and KMar. Australia and Malaysia will also contribute personnel in the days ahead. At the moment the exact size and composition of the Dutch contribution has not yet been determined. Through the mediation of the OSCE, agreements on this point will also be made with the separatists.

In addition, the Netherlands and Ukraine are working on a treaty that, after being ratified by the Ukrainian parliament, will provide a formal basis for the presence on Ukrainian soil of armed personnel from states whose nationals were on board flight MH17. On the basis of the treaty, the personnel could be equipped with personal firearms. The primary aim remains the same: to find and repatriate victims' bodies and personal belongings.

The government has appointed Mr P.J. Aalbersberg, chief of Amsterdam's regional police unit, as Head of Mission. It has put the Ministry of Defence in charge of operations at the crash site. The Ministry will also be responsible for providing logistical support. Operational management will be in the hands of a colonel in the Royal Netherlands Marechaussee and his deputy in both the Dutch and Australian police forces. They will be under the direction of the Defence Operation Centre. The Ministerial Crisis Management Committee will be in overall charge.

The mission will establish its logistical base in Kharkiv, while the personnel who carry out the mission will probably stay in Torez or Donetsk. Torez is located in the direct vicinity of the crash site, while Donetsk is an hour's drive away. Personnel staying in Donetsk will travel to and from the crash site every day. The security situation and indirect contact with the separatists will determine what activities can be carried out. Under the circumstances, this procedure is the best way of achieving quick results.

The mission described above will take place against the following background. Fighting between Ukrainian troops and pro-Russian separatists is taking place at several locations in eastern Ukraine. The crash site is situated in the Donetsk-Oblast region. The Ukrainian government no longer exercises authority there. The city of Donetsk and the surrounding area are under the control of the self-declared 'People's Republic of Donetsk' (PRD), which was proclaimed after a referendum (not recognised internationally) on 11 May 2014. Leading figures in this group have Russian nationality. The PRD's political objective is either annexation by Russia, following Crimea's example, or at least a permanent breakaway by Donetsk from Ukrainian central government control. However, the PRD's authority in the region is not absolute. In some places, criminal groups are taking advantage of the lack of law and order.

Partly due to the close personal ties of Ukrainian separatist leaders with Russia, Russia exercises a major influence on the PRD and other separatist groups. Prime Minister Mark Rutte has spoken to President Putin several times in the recent period. The Russian president supports the proposed mission to recover victims' remains and personal belongings from the crash site and take them to the Netherlands as quickly and safely as possible. He has expressed his willingness to exert influence on the separatists. The government attaches importance to broad international support, especially from Russia. It will therefore inform the United Nations Security Council about the agreement between the Netherlands and Ukraine, to which the finishing touches are now being put, as a further step towards implementing UN Resolution 2166.

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After Ukrainian government troops had gained ground in the weekend of 19-20 July, President Poroshenko announced a unilateral ceasefire on 21 July in a 40 km radius around the crash site. PRD leader Alexander Borodai announced a unilateral ceasefire a few hours later. Local firefights cannot, however, be ruled out, as events today have again shown. There is no general ceasefire throughout the conflict area.

The government is doing everything in its power to improve security and stability at the MH17 crash site for those working there. As in the case of other missions in which the Netherlands is involved, preparations are being made to deal with any eventualities during the repatriation mission. Nevertheless, both the personnel and the implementation of the mission are subject to significant risks. Whether it is safe enough to enter the area will be decided on a day-to-day basis. Despite the humanitarian nature of the mission, the possibility that the conflicting parties will seek to make political capital from the international presence cannot be ruled out. It is conceivable that during the mission the separatists will set requirements for admission to the area or for practical support to the mission, especially if the conflict develops in such a way that the PRD or other separatists feel they are being driven into a corner. The ongoing operation by Ukrainian forces in eastern Ukraine may also lead to responses and escalations, thereby putting the temporary ceasefire under strain.

In the event of casualties, hospitals in Ukraine will mainly be used. A Role 1 capability (first aid and stabilisation) will be established so that, in the event of a serious incident, casualties can be given initial help and can be transported quickly and independently to local hospitals. In cooperation with Australia, a decision will be made on what additional medical capabilities are required. This may involve the temporary secondment of medical personnel to one of the local hospitals or the development of a Role 2 capability (intensive surgical and medical treatment and care).

The security situation is being closely monitored. The local commander will constantly assess security in the area. The security of the Dutch personnel will be guaranteed mainly by making arrangements with both the Ukrainian government and, via the OSCE, the leaders of the local separatist movements. They, in turn, know that they are in the international spotlight. To avoid undesirable reactions, anything that might be perceived as provocative will be avoided as far as possible. The unthreatening civilian, humanitarian and impartial character of the mission will be helpful in this regard. If the House of Representatives so desires, it can be provided with further information on the security situation through the appropriate channel.

The mission will last a maximum of three weeks and will be terminated earlier if the task of finding and repatriating bodies is completed sooner or if it becomes irresponsible to continue the work because of the security situation.

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Despite the limited preparation time and the risks identified, the government believes that the mission is of the utmost importance. It is determined to bring the victims back to the Netherlands. There is no time to lose. The security situation is already being closely monitored and the activities will be determined day by day on the basis of local conditions.

Frans Timmermans  
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