

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2020 Nr. 29

A. TITEL

*Verklaring van bepaalde Europese Regeringen inzake de exploitatie van de lanceervoertuigen Ariane, Vega, Sojoez vanaf het Ruimtevaartcentrum in Guyana;
Parijs, 4 december 2017*

Voor een overzicht van de verdragsgegevens, zie verdragsnummers 011600 en 013749 in de Verdragenbank.

B. TEKST¹⁾

Declaration by certain European Governments on the launchers exploitation phase of Ariane, Vega, and Soyuz from the Guiana Space Centre

The Republic of Austria,
the Kingdom of Belgium,
the Czech Republic,
the Kingdom of Denmark,
the Republic of Estonia,
the Republic of Finland,
the French Republic,
the Federal Republic of Germany,
Hungary,
the Republic of Ireland,
the Italian Republic,
the Grand Duchy of Luxembourg,
the Kingdom of the Netherlands,
the Kingdom of Norway,
the Kingdom of Spain,
the Kingdom of Sweden,
the Swiss Confederation,
the United Kingdom of Great Britain and Northern Ireland,

Being the Governments of the States parties to the Declaration on the Launchers Exploitation Phase of Ariane, Vega and Soyuz from the Guiana Space Centre which was finalised on 30 March 2007, entered into force on 26 November 2009 and is applicable from 1 January 2009 until 31 December 2020 (hereinafter referred to as "the 2007 Declaration")

hereinafter referred to as "Parties to the 2007 Declaration",

¹⁾ De Duitse en de Franse tekst zijn niet opgenomen.

Recalling the Arrangement signed on 21 September 1973 between certain European governments and the European Space Research Organisation concerning the execution of the Ariane launcher programme, and in particular Articles I, III.1 and V thereof, which provided for a new arrangement setting out the content of the production phase of the Ariane programme,

Having regard to the Convention for the establishment of a European Space Agency (hereinafter referred to as "ESA" or "the Agency"), which was opened for signature on 30 May 1975 and entered into force on 30 October 1980 (hereinafter referred to as the "ESA Convention"),

Considering that the ESA launcher programmes are primarily focused on research and development activities and that the Ariane and Vega launch systems developed within the framework of the Agency (hereinafter "the ESA developed launchers") contribute to securing the guaranteed access to space for Europe,

Recalling that by virtue of its Resolution ESA/C/XXXIII/Res. 3 of 26 July 1979, the Council of the Agency agreed that production was to be entrusted to an industrial structure,

Recalling that certain European Governments had agreed, since 14 April 1980 and until the end of 2008, through the Declaration on the Ariane launcher production phase and its subsequent renewals and extensions (hereinafter referred to as "Ariane Production Declaration"), that the Ariane launcher production phase is conducted by an industrial structure and that the Agency shall carry out, in conformity with Article V.2 of the ESA Convention, the operational activity associated with the Ariane launcher production phase,

Recalling that the Agency, through the adoption of several Council Resolutions, accepted to carry out such mandate and entered into a Convention and its Riders with Arianespace through which Arianespace agreed to carry out the manufacturing, marketing and launch of the ESA developed launchers for peaceful purposes in accordance with the provisions of the ESA Convention,

Taking note that the Council of the Agency meeting at ministerial level on 5 and 6 December 2005 adopted a Resolution on the Evolution of the European Launcher Sector (hereinafter referred to as the "2005 Launchers Resolution") which recognised the need to prepare a common framework for the launchers exploitation phase beyond 2008, implementing a coherent launcher strategy and succeeding to the scheme of the Ariane Production Declaration as from 1 January 2009,

Recalling that the Resolution on the mandate entrusted to the Agency under the Declaration by certain European Governments on the Launchers Exploitation Phase of Ariane, Vega and Soyuz from the Guiana Space Centre (ESA/C/CXCV/Res.3 (Final)) was adopted on 13 June 2007,

Recalling that the Arrangement between the European Space Agency and Arianespace on the Launchers Exploitation Phase of Ariane, Vega and Soyuz from the Guiana Space Centre entered into force on 1 January 2009 (hereinafter referred to as the "LEA"),

Considering that the Arianespace group is presently formed by the companies Arianespace Participation S.A. and Arianespace S.A.S, both having their registered office in France (hereinafter together referred to as "Arianespace") and that the shares of Arianespace are held by European industrial firms involved in the manufacture of the ESA developed launchers as defined above,

Further considering that for the purpose of enhancing the flexibility of the launch services offered by Arianespace, the Agency has concluded agreements with France and Russia for the exploitation of the Soyuz launch system (hereinafter referred to as the Soyuz launcher) from the Guiana Space Centre (hereinafter referred to as "CSG"),

Recalling that, pursuant to the 2005 Launchers Resolution, ESA Member States participating in the relevant Agency launcher development programmes have concluded, within the frame of the Agency an exploitation agreement for each of the ESA developed launchers (hereinafter referred to as the "Exploitation Agreements"), setting the specific principles for the exploitation phase of each launcher concerned, in compliance with the provisions of the 2007 Declaration,

Taking note of the document entitled "Reference Framework for a coherent implementation, as from 2007, of decisions related to the restructuring of the European launcher sector" (ESA/PB-ARIANE(2005)3, rev.3) referred to in paragraph 16 d) of the 2005 Launchers Resolution (hereinafter referred to as the "Reference Framework"),

Recalling that the Governments which participated in the Ariane Production Declaration and the 2007 Declaration have contributed to the funding of the CSG launch range according to the relevant Resolutions adopted by the ESA Council,

Considering that the ESA Council established a new programme for launchers which was set up and subscribed by the Participating States on 2 December 2014 for the development of Ariane 6 and Vega C (hereinafter referred to as "Ariane and Vega programme"),

Considering that Ariane 6 and Vega C mean the launchers described in the Ariane and Vega programme including their future evolutions, and that "current Vega" means the Vega launch system operational at the date of finalisation of this Declaration and that "Vega" means both the current Vega and Vega C,

Recalling that ESA's Resolution on Europe's access to space (ESA/C-M/CCXLVII/Res.1(Final)) (hereinafter referred to as the "2014 Launchers Resolution") invites the Parties to the 2007 Declaration to review its provisions, emphasises that decisions taken on the development of Ariane 6 are closely associated with a change in governance of the European launcher sector, under the understanding that ArianeGroup will control the commercial exploitation of Ariane 6 launch services and finally recognises the mutual benefit to prepare the exploitation of Ariane 6 and Vega C together,

Recalling that CNES transferred its shares in Arianespace on 31 December 2016 and that, as a result of this transfer, ArianeGroup will control Arianespace in terms of percentage of the capital of the company, its shares and voting rights,

Considering that the ESA Member States participating in the Agency's launchers' development programmes will amend the Exploitation Agreements mentioned above as soon as possible and in a timely manner in view of the entry into force of the revision of the 2007 Declaration (hereinafter referred to as "this Declaration") in order to continue defining the requirements for the exploitation of the existing ESA developed launchers and set out the requirements for the exploitation of the Ariane 6 and Vega C launchers,

Having regard to the Memorandum of Understanding among the European Space Agency, Arianespace Participation S.A., ArianeGroup, ELV S.p.A. represented by Avio S.p.A. and the Centre national d'études spatiales regarding the exploitation of Ariane 6 and Vega Launch Systems which was approved by the Council of ESA at the occasion of its meeting held on 12-13 October 2016,

Having regard to the agreements between the French Government and ESA on the Guiana Space Centre (CSG) and associated services signed on 18 December 2008 and concluded for the period running from 1 January 2008 until 31 December 2020, which are foreseen to be extended beyond 2020,

Considering the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other celestial Bodies, of 27 January 1967 (hereinafter referred to as the "Outer Space Treaty"),

Considering that ESA has accepted the provisions of the Convention on International Liability for Damage Caused by Space Objects of 29 March 1972 and the provisions of the Convention on Registration of Objects Launched into the Outer Space of 14 January 1975,

Considering the Resolution on the Agency's legal liability (ESA/C/XXII/Res.3) adopted by the ESA Council on 13 December 1977,

Noting that the Parties to the 2007 Declaration decided to revise the latter by finalising this Declaration on 4 December 2017 and NOTING that only those States Parties to the 2007 Declaration accepting to become party to the revised Declaration in accordance with section V.1 below will be considered "Parties to this Declaration",

Agree as follows:

I. PURPOSE AND UNDERTAKINGS OF THE PARTIES

1. Through this Declaration the Parties hereto agree on a common framework for the exploitation phase of ESA developed launchers and of the Soyuz launcher operated from the CSG. The launchers exploitation phase of Ariane 5 and current Vega, which follows the qualification process as described in the Reference Framework mentioned in the preamble, includes the relevant launcher manufacturing, launcher integration, launch operations and marketing activities. The launchers exploitation phase of Ariane 6 and Vega C includes the relevant launcher manufacturing, launcher integration, launch operations and marketing activities and all the activities required to maintain the launch system compliant with the respective revised Ariane and Vega Exploitation Agreements.
2. The guarantee of an available, reliable, and independent access to space for Europe at affordable conditions has been and will remain an essential goal for the Parties hereto.
3. Guaranteed access to space shall be assured by (i) launchers developed and produced by European industry, primarily designed to respond to European institutional mission needs, (ii) an operational European launch base and (iii) European industrial capabilities.
4. The launchers exploitation phase shall be carried out for peaceful purposes in compliance with the Outer Space Treaty and the ESA Convention.
5. The Parties hereto decide to entrust the execution of the exploitation phase of the ESA developed launchers and of the Soyuz launcher operated from the CSG:
 - (i) for what concerns Ariane 5, current Vega and Soyuz operated from the CSG to Arianespace (hereinafter referred to as the "launch service provider") in compliance with the roles and responsibilities defined in the Reference Framework referred to in the Preamble, and
 - (ii) for what concerns Ariane 6 to the launch service provider as well as to the launcher system prime contractor which will be responsible among others for the manufacturing and integration of the Ariane 6 launcher and which will bear, as shareholder or supplier of the launch service provider, the risks arising from the commercial exploitation of Ariane 6, and

(iii) for what concerns Vega C to the launch service provider as well as to the launcher system prime contractor which will be responsible among others for the manufacturing and integration of the Vega C launcher and which will bear the risks arising from the commercial exploitation of Vega C.

For this purpose, the Agency has concluded the LEA and will conclude amendments to it as foreseen in section III below.

6. The exploitation of the ESA developed launchers shall respect the industrial and geographical distribution of work resulting from the relevant development programmes undertaken by the Agency, subject to the specific provisions of the relevant exploitation agreements for each of the ESA developed launchers to be concluded among the States participating in the relevant Agency launcher development programme as mentioned in the preamble and to the provisions of the arrangements between ESA and the launch service provider foreseen in section III below.
7. The European launch base shall be maintained in operational conditions so as to allow ready access to space for the Parties to this Declaration. The Parties undertake for their part to contribute to the funding of the CSG launch range in accordance with specific arrangements.
8. The Parties hereto will:
 - i) take the ESA developed launchers and the Soyuz launcher operated from the CSG into account and consider compatibility of their national missions with the use of the ESA developed launchers when defining and executing their national programmes,
 - (ii) contribute to the setting-up of a framework in accordance with paragraph 9 below,
 - (iii) promote such framework to other European states as well as in all European organisations in which they are members or other international programmes in which they are involved, except where such use compared to the use of other launchers or space transport means available at the envisaged time presents an unreasonable disadvantage with regard to cost, reliability or mission suitability.

Preference to their utilisation shall be granted by the Parties in the following order of priority:

- ESA developed launchers,
 - the Soyuz launcher operated from the CSG when comparing the options to launch missions by non ESA-developed launchers,
 - other launchers.
9. The Parties hereto agree to support collectively the setting-up of a framework governing the procurement of launch services for European institutional programmes and ensuring a level playing field for Europe on the worldwide market for launch services. Through this framework different European institutional actors will be enabled to use competitive ESA-developed launchers as a collective high priority and an individual benefit, and to consider contracting a number of launches per year.
 10. In the case of sales of launch services provided through one of the launch systems which are the subject of this Declaration to a State which is not a member of the Agency or to a customer that does not come under the jurisdiction of a Member State of the Agency:
 - a) The Parties agree to set up a Committee, hereinafter referred to as "the Sales Control Committee", which will succeed to the sales control committee set up under the Ariane Production Declaration mentioned in the preamble, and will have the responsibility for determining whether a projected launch sale constitutes use that runs counter to the provisions of section I.4 above.

The Sales Control Committee shall comprise one representative of each Party hereto. The members of the Sales Control Committee shall be kept informed by the Director General of the Agency of projected sales of launch services by the launch service provider to States which are not members of the Agency and to customers that come under the jurisdiction of such States.

The Sales Control Committee shall be convened as follows: one-third of the members may request a meeting on the grounds that the use of a launcher would run counter to the provisions of section I.4 above.

This request must be made not more than four weeks after the members of the Sales Control Committee have been informed of the proposed contract. The Sales Control Committee must then be convened within two weeks. Within four weeks at the most, it may decide to prohibit the projected launch sale on the grounds that it is incompatible with the provisions of section I.4 above, doing so by a two-thirds majority of its members.

This decision shall be binding on the launch service provider. In the exercise of the competences that France holds by virtue of the Outer Space Treaty, France undertakes to take the necessary steps to ensure the proper implementation of the prohibition decisions taken by the Sales Control Committee.
 - b) Without prejudice to the obligations devolving upon it under this Declaration, any Party shall retain the right to declare that for reasons of its own, it does not associate itself with a particular launch.
 - c) If a Party considers that the sale of a launch is not compatible with its adherence to this Declaration, it must, after such consultations as it may deem necessary, inform the Director General of the Agency. If, after the Director General has informed the launch service provider, the sale goes through, the Party may immediately suspend its adherence to this Declaration in respect of the sale in question, on condition that it formally notifies the Agency and the other Parties hereof within one month and that it respects the commitments it has entered into with regard to other sales. The Party shall do its utmost to make available the national assets and intellectual property rights as defined in section I.11 below, used for the exploitation of the launcher and, where it has done so, shall not oppose their use, including in the case of paragraph (b) above.

Should the Party concerned object to making available, for the purposes of the launch in question, equipment and subsystems manufactured by its national industry, it shall be bound, within the framework of its powers, to facilitate the transfer of the manufacture of the relevant supplies to the industries of the other Parties, and may not under any circumstances oppose the manufacture of the supplies in question by the industries of the other Parties.

- d) The Sales Control Committee shall establish its own rules of procedures.
11. The Parties hereto shall do their utmost to make available to the launch service provider when required for the purposes of the exploitation of the ESA developed launchers and of the Soyuz launcher operated from the CSG:
- under financial conditions limited to the costs incurred on that account, the assets which are owned by certain Parties hereto and which have been used for the development programmes of the ESA developed launchers and of the Soyuz launcher at CSG programme, with the exception of the CSG launch range to which the specific provisions of section I.7 above shall apply;
 - free of charge, the intellectual property rights belonging to them and deriving from the development programmes of the ESA developed launchers and of the Soyuz launcher at the CSG programme;
 - free of charge, access to technical information resulting from the said programmes under conditions for the protection of information referred to in section III.1(h) below.
12. The Parties hereto shall do their utmost to provide ESA and the launch service provider with the assistance required with regard to industrial quality surveillance for Ariane 5, current Vega and Soyuz launchers operated from the CSG. With respect to Ariane 6 and Vega C, they shall do their utmost to undertake or support industrial quality surveillance activities on industrial suppliers under their jurisdiction and, in the case these activities are performed outside the ESA framework, to inform ESA on a regular basis and immediately alert ESA on any critical issues identified in the course of those activities.
13. If, in connection with an export sale, it proves desirable to lay down special arrangements regarding guarantees and export financing, the Parties shall consult together to determine how such a request can be met on the basis of the principle of equitable distribution of the risk and the funding, pro rata to participation in exploitation as defined in the exploitation agreements mentioned in the preamble.
14. The Parties agree that they will consult together on the steps to be taken in case of major modifications of the structure, governance and features of the launch service provider or in case of events which may have a major impact on its business or on the future of the ESA developed launchers and of the Soyuz launcher from CSG.

II. MANDATE TO THE AGENCY

The Parties to this Declaration:

1. Invite the Agency to (i) ensure that the provisions of this Declaration are complied with and applied, and that the rights of the Parties are safeguarded during the exploitation of all ESA developed launchers and Soyuz operated from the CSG (ii) to monitor that the activities performed by the launch service provider, the launcher system prime contractors and their suppliers during the exploitation phase of:
 - Ariane 5 and current Vega do not put into question the qualification of the launch systems, including the related facilities; and
 - Ariane 6 and Vega C comply with the Ariane and Vega Exploitation Agreements respectively.
2. Invite the Agency to agree, through a Council decision, to the mandate given to it under the terms of this Declaration in conformity with Article V.2 of the ESA Convention;
3. Note that for what concerns the exploitation phase of Ariane 5, Soyuz and current Vega launchers, the Agency has concluded the LEA with Arianespace as was foreseen in section III of the 2007 Declaration and in accordance with the principles contained in that Declaration. For the purpose of extending such exploitation beyond 2020 and implementing provisions for the execution of the exploitation phase of Ariane 6 and Vega C, the Parties invite the Agency to conclude, as provided for in section III below and in accordance with the principles contained in this Declaration, amendments to the LEA that will include Protocols to which the prime contractors will be parties together with ESA and the launch service provider;
4. Invite the Agency to agree that the reporting to the Parties on matters relevant to the mandate entrusted to it through this Declaration is made at the occasion of the meetings of the Council of the Agency or of its subordinate body entrusted with launcher related matters; such reporting activities will take place at least once a year and will include in particular:
 - a) reports on the financial needs and funding of the CSG;
 - b) reports by the Agency Director General or his representative on the world launch services market and associated critical analysis;
 - c) detailed reports by the Agency Director General or his representative on the overall geographical distribution of work related to exploitation among the Parties to this Declaration;
 - d) reports by the Agency Director General on the distribution of industrial work related to exploitation;
 - e) detailed reports by the Agency Director General on the basis of the data acquired pursuant to the provisions of section III.1.o) below and reports on the annual business plan presented by the representative of the launch service provider on its activities. On that occasion, representatives of the launcher system prime contractors shall be invited. The Council or its subordinate body may make any recom-

- mendation to the launch service provider or the launcher system prime contractors that it considers useful for attaining the objectives of this Declaration. It may request the launch service provider to supply it with further reports;
- f) reports by the Agency Director General on the launch service provider's activities, including any development in the structure and/or the composition of the shareholdings of the launch service provider's company and its group;
 - g) reports by the chairman of the Sales Control Committee;
5. Invite the Agency to treat the reports and information referred to above, which may be of a confidential nature, as such;
 6. Provide that the representatives of the Parties to this Declaration take the occasion of meetings of the Council of the Agency or of its subordinate body entrusted with launcher related matters to reach agreement on any matters relating to the implementation of this Declaration;
 7. Invite the Council of the Agency to authorise the Director General of the Agency to exercise the duties of depositary of this Declaration and those described in section V below;
 8. Invite the Agency to assist the launch service provider in the promotion of the launcher export activities, in particular in approaching international organisations;
 9. Invite the Agency, subject to the applicable provisions for the protection of information, to provide the launch service provider with the assistance required with regard to industrial quality surveillance for Ariane 5, current Vega and Soyuz launchers operated from the CSG. With respect to Ariane 6 and Vega C, invite the Agency, subject to the applicable provisions for the protection of information, to coordinate the industrial quality surveillance activities, arrange for those activities to be performed within the ESA framework and draw the attention of the launch service provider to any critical issues identified in the course of those activities.
 10. Nothing in this Declaration, implicit or explicit, shall be construed as imposing on the Agency an obligation or liability to finance any activity of the launch service provider, in particular when the latter incurs continuous financial losses.

III. COMMITMENTS TO BE TAKEN BY THE LAUNCH SERVICE PROVIDER AND ASSOCIATED UNDERTAKINGS OF THE LAUNCHER SYSTEM PRIME CONTRACTORS

1. In execution of the mandate entrusted to the Agency under this Declaration and in compliance with the 2005 and the 2014 Launchers Resolutions as well as with the amended Ariane and Vega exploitation Agreements, ESA concludes amendments to the LEA for the exploitation of the Ariane 6 and Vega C launchers as foreseen in section II.3 above. Such amended LEA, shall include amendments of the existing separate Protocols for Ariane and Vega, for what concerns Ariane 6 and Vega C, that will be co-signed by ESA, the launch service provider and the respective launcher system prime contractors and will include the definition of the latter's respective roles and responsibilities with regard to the exploitation of the Ariane 6 and Vega C launchers. The amended LEA shall contain the commitment of the launch service provider with respect to each ESA developed launcher and to the Soyuz launcher operated from the CSG, in consideration of the tasks entrusted to it, to:
 - a) carry out the activities entrusted to it in compliance with the ESA Convention, with the provisions of the Outer Space Treaty and with the applicable national laws and regulations;
 - b) conform to the decisions taken by the Sales Control Committee set up under section I.10 above;
 - c) agree that:
 - the launch service provider's main company's purpose consists in the exploitation of the ESA developed launchers;
 - the exploitation of the Soyuz launcher from the CSG is carried out by it in support of the launch service provider's main company's purpose;
 - the exploitation of other launchers from the CSG may be carried out by it, following agreement of the ESA Council and of the French Government, in support of its main company's purpose;
 - any other activities may be carried out by it upon consultation of the ESA Council and the Parties, if requested by one of them, and shall not have a negative impact on its main company's purpose;
 - all the aforementioned activities shall be carried out by it in compliance with the relevant ESA Council decision(s) and, as appropriate, with the agreement concluded between ESA and France;
 - it shall respect the order of priority set out in section I.8 above;
 - d) implement a payload allocation policy with the objective to secure, for each ESA developed launcher, the minimum launch rate contributing to maintain the European industrial capabilities necessary to secure the guarantee of access to space for Europe and taking into account the range of their respective performances;
 - e) establish a business plan, including a risk assessment, defined on the basis of committing objectives agreed with the Agency such as, reliability, launch rate capability and schedule and jointly agreed, with respect to Ariane 5 and, for current Vega launches, until flight number 16 included, planned to be completed by mid-2019, with the relevant launcher system prime contractors;
 - f) establish a business plan, as of mid-2019, including a risk assessment, defined on the basis of committing objectives set out in the amended LEA, such as reliability, launch rate capability and schedule and jointly agreed with the relevant launcher system prime contractors for what concerns Ariane 6 and current Vega/Vega C respectively with a view to ensuring the mutually beneficial exploitation of all

ESA developed launchers; in case of persisting disagreement, the Agency shall mediate between Arianespace and the launcher system prime contractor concerned. The Agency shall report on the outcome of the mediation to the Parties to this Declaration as well as to the Member States contributing to the development of the relevant launcher at the occasion of the meetings of the Council of the Agency or of its subordinate body entrusted with launcher related matters with a view to enable them to assess the situation and, in the case where the mediation has not resolved the persisting disagreement, take decisions regarding the exploitation of the launcher in question. The above procedure shall not prejudice the application of sections II.4 (e) and II.6.

- g) respect, for each ESA developed launcher concerned, the industrial distribution of work resulting from all the relevant launcher development programmes undertaken by the Agency in compliance with the provisions in the exploitation agreements mentioned in the preamble on the basis of the following provisions:
- if the launch service provider considers that this distribution cannot be maintained because industrial proposals are unreasonable in terms of price, quality or delivery dates, it shall put the work out to competitive tender;
 - before taking any such measure, the launch service provider shall notify the Party concerned and the Director General of the Agency of its intention to do so, providing reasoned grounds in support of it so that together a solution can be found within a reasonable time. The Agency shall be associated with the procedure leading to any change in the industrial distribution of work resulting from all ESA developed launcher programmes undertaken by the Agency. The procedures shall be as set out in the specific arrangements concluded between the Agency and Arianespace in accordance with the provisions of section II.3 above;
 - the previous contractor may match the best financial offer and shall have priority in relation to all industrial proposals that are equivalent in terms of prices, delivery dates and quality;
- h) use the rights and information made available to it under sections I.11 above and III.2 below only for the purposes of the execution of the exploitation of the ESA developed launchers and the Soyuz launcher operated from the CSG and not disclose such rights and information to, or authorise the use thereof by any entities without the owner's explicit consent; flow down the rights and obligations set out in this Article to the launcher system prime contractors and their suppliers as far as this is required for the exploitation of their respective ESA developed launchers; comply with the applicable national export control rules and regulations and with the Agency's procedures relevant to the protection of information applied by ESA and approved by its Member States as well as technology transfers outside the Member States of the Agency; reflect the above restrictions in the contracts with its customers and suppliers;
- i) reimburse the French Government, with a ceiling of 60 M€ per launch, the amount of any damages it may be required to pay under the terms of section IV a) and c) of this Declaration, in the event of proceedings being instituted by the victims of damage caused by an Ariane launch or a Soyuz launch carried out by the launch service provider from the CSG during the exploitation phase;
- j) reimburse the French Government and ESA, pro rata to their respective shares of liability as defined in section IV b) of this Declaration and within a ceiling of 60 M€ per launch, the amount of any damages they may be required to pay in the event of proceedings being instituted by the victims of damage caused by a Vega launch carried out by the launch service provider from the CSG during the exploitation phase;
- k) undertake care and custody of the assets and information made available to it by the Parties hereto and by the Agency and indemnify the owner(s) for any damage thereto caused by itself, its employees or persons at its service or by third parties;
- l) take out the appropriate insurance cover or equivalent guarantee for the liabilities described in sections III.1 i) j) k) above and the other liabilities and risks associated with the carrying out of its activities provided for in the arrangements mentioned in this section III.1; the terms of such insurance cover or guarantee will be agreed upon with the Agency and with the French Government;
- m) ensure that the activities carried out by it and by its suppliers during the exploitation phase:
- of Ariane 5 and current Vega do not put into question the qualification status of the launcher system and of the relevant production assets and have the technical and financial responsibility for maintaining in good operational order the assets made available to it under the terms of sections I.11 above and III.2 below, in accordance with arrangements concluded with the owners.
 - of Ariane 6 and Vega C comply with this Declaration for the purpose of their exploitation in accordance with article II.1. The technical and financial responsibility for maintaining in good operational order the assets made available to it under the terms of sections I.11 above and III.2 below is assigned either to it or to the relevant launcher system prime contractor.
- Subject to the above, the launch service provider, in agreement with the owners, may make modifications to the assets made available under sections I.11 above and III.2 below, as it deems necessary for its activities;
- n) contribute to the funding of the costs associated with the use of the CSG launch range, according to the provisions referred to in the 2005 Launchers Resolution mentioned in the preamble;
- o) undertake to afford the Agency's Director General the visibility and audit rights it needs towards the launch service provider and its suppliers, and in particular on the yearly exploitation costs and rev-

- venues for each launcher and on the evolution of the business plan, in order to carry out the mandate assigned to it in this Declaration and under the ESA Convention and to provide the information and reports foreseen in section II.4 above;
- p) undertake, in discharging its responsibilities for marketing the launchers, in its relations with outside parties, with its customers and with the public, to emphasise the European and multilateral character of the development and exploitation of the ESA developed launchers, by mentioning, especially on written and audio-visual materials, that the relevant development programmes have been carried out by the Agency and by drawing attention to the role played in such development by the Parties to this Declaration;
 - q) supply the Agency and the Parties hereto, giving them priority over third- party customers, with the launch services and slots required, under the following conditions:
 - the Agency and the Parties shall communicate to the launch service provider their requests for services as their requirements arise, taking up cost-free options; in the event of a conflict of priorities between the Agency and a Party, the Agency shall have priority; in the event of a conflict of priorities between the Parties, those participating in the relevant launcher Agency's development programme shall have priority;
 - the arrangements between the Agency and Arianespace shall contain a model clause, which is to be included in the launch sale contracts, defining the procedure to be applied in the event of a slip-page of the launch slot;
 - r) undertake such other commitments as may be necessary to implement the tasks entrusted to it. No provision of this Declaration shall be interpreted as a request to the launch service provider to pursue any activity which would result in continuous financial losses.
2. The Parties take note that ESA shall make available to the launch service provider, when required for the purpose of the launchers exploitation:
 - free of charge the production master files stemming from the development programme relevant to each ESA developed launcher, as a basis for carrying out the relevant exploitation phase;
 - free of charge, the facilities, equipment and tooling acquired within the framework of the development programme relevant to each ESA developed launcher and to the Soyuz launcher operated from the CSG, and of which the Agency is the owner. These assets may also, in agreement with the launch service provider, be made available to its suppliers;
 - free of charge, its intellectual property rights deriving from the development programme relevant to each ESA developed launcher and from the programme relevant to the Soyuz launcher operated from the CSG; the launch service provider shall have access free of charge to the technical information in the Agency's possession, resulting from the said programmes.
 3. An active dialogue shall be maintained between the launch service provider and the Agency, in order to monitor that the objectives of the launcher development programmes undertaken within the framework of the Agency take into account foreseeable trends of the launch services market.

IV. LIABILITY FOR DAMAGES CAUSED BY A LAUNCH

Subject to the undertakings of the launch service provider as foreseen in section III above, the Parties to this Declaration:

- a) agree that in the event of proceedings being instituted by the victims of damage caused by an Ariane launch carried out by the launch service provider from the CSG during the exploitation phase, the French Government shall be responsible for the payment of any damages that may be awarded;
- b) take note of the liability principles defined in the 2005 Launchers Resolution for all launchers developed by the Agency other than Ariane and agree that in the event of proceedings being instituted by the victims of damage caused by a Vega launch carried out by the launch service provider from the CSG during the exploitation phase, the French Government shall be responsible for the payment of one third of any damages that may be awarded and the Agency shall be responsible for the payment of the remaining two-thirds; for such launcher, the Member States of the Agency which are Participating States in the relevant development programmes of the Agency will conclude the corresponding exploitation agreement mentioned in the preamble which shall regulate the sharing of such Agency's liability in accordance with the 2005 Launchers Resolution; it is understood that no other Member State of the Agency will be held responsible for the payment of any part of this 2/3 share;
- c) agree that in the event of proceedings being instituted by the victims of damage caused by a Soyuz launch carried out by the launch services provider from the CSG during the exploitation phase, the French Government shall be responsible towards ESA and the Parties to this Declaration for the payment of any damages that may be awarded;
- d) take note of the Resolution on the Agency's legal liability mentioned in the preamble and agree that sections IV. (a), (b) and (c) above shall not apply in cases where the Agency is the customer of the launch service provider and if it is found that the source of the damage is an Agency satellite;
- e) agree that the responsibilities taken on by the French Government in sections IV. (a), (b) and (c) above shall not apply if the damage is caused by a deliberate act or omission on the part of the Agency, persons employed by it or its Member States (with the exception of the French State and public bodies under its

authority), and that the responsibilities taken on by the Agency in section IV.(b) above shall not apply if the damage is caused by a deliberate act or omission on the part of the French State or public bodies under its authority.

V. ENTRY INTO FORCE, DURATION, REVISIONS, VALIDITY

1. This Declaration shall enter into force on the date when two thirds of the Parties to the 2007 Declaration have notified the Director General of ESA in writing of their acceptance to become a Party to this Declaration. If this Declaration as well as any subsequent revision has not entered into force within a period of two years since its finalisation, a meeting among the states Parties to the 2007 Declaration which have finalised and intend to accept to become party to this Declaration shall be convened by the ESA Director General to evaluate the possible measures to be taken in order to address that situation. For avoidance of doubt: (i) the 2007 Declaration shall remain in force and shall continue to be binding on the Parties to the 2007 Declaration which will not become Parties to this Declaration; and (ii) this Declaration will supersede the 2007 Declaration for those Parties to the 2007 Declaration that will become Parties to this Declaration.
2. The Hellenic Republic, the Republic of Poland, the Portuguese Republic and Romania may accede to this Declaration by notifying the Director General of the Agency of their acceptance to become a Party. This Declaration shall be binding on such Member States 30 days after the date on which they respectively notify the Director General of the Agency of their acceptance to become a Party. Such states shall also then be considered as Parties to this Declaration.
3. This Declaration, shall be open for accession to any State becoming a new Member of the European Space Agency if it so requests. Any such request to accede shall be addressed to the Director General of the Agency and shall require the agreement of all the Parties to this Declaration. This Declaration shall be binding on a Member State that has acceded to it 30 days after the date on which it notifies the Director General of the Agency of its accession.
4. This Declaration shall apply from the date of its entry into force in accordance with section V.1 above until the end of 2035. The provisions of this Declaration shall remain applicable beyond the above expiration date in order to allow, where appropriate, for the execution of launch contracts concluded by the launch service provider up to the end of 2035. The parties hereto invite the Director General of the Agency to convene a meeting among them in 2026 in order to evaluate the progress of its implementation and the appropriate measures to be taken.
5. The Parties to this Declaration shall consult together on the conditions for its renewal in good time and not less than two years before the Declaration is due to expire.
6. The Parties to this Declaration shall meet, at the request of at least four of them, for the purpose of reviewing the provisions of this Declaration and its implementation. In the context of these reviews, the Director General of the Agency or any Party may formulate proposals to the Parties to this Declaration in order to amend the content of this Declaration. Amendments to the provisions of this Declaration shall be adopted by the unanimous acceptance of the Parties hereto.
7. The provisions of this Declaration are intended to regulate only the relationship between the Parties hereto; they do not affect or modify the agreements that any of the Parties to this Declaration may have entered into with third parties prior to the effective date of this Declaration as foreseen in section V.1 above; they cannot be affected or modified by the agreements that any of the Parties to this Declaration may enter into with third parties after the effective date of this Declaration.

VI. DISPUTES

Any dispute arising between two or more Parties over the interpretation or implementation of this Declaration and not settled through the intervention of the Agency's Council, shall be settled in accordance with the provisions of Article XVII of the ESA Convention.

The original of this Declaration, done in Paris on 4 December 2017, of which the English, French, and German texts are equally authentic, shall be deposited in the archives of the European Space Agency; which shall transmit certified copies to all Parties.

D. PARLEMENT

De Verklaring behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan de Verklaring kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van de Verklaring zullen ingevolge artikel V, eerste lid, van de Verklaring in werking treden op de datum waarop twee derde van de partijen bij de Verklaring van 2007 de directeur-generaal van ESA schriftelijk in kennis heeft gesteld van hun aanvaarding om partij te worden bij deze Verklaring.

Uitgegeven de *negende* maart 2020.

De Minister van Buitenlandse Zaken,

S.A. BLOK