

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2016 Nr. 69

A. TITEL

*Verdrag betreffende de vestiging van het Galileo-referentiecentrum tussen het Koninkrijk der Nederlanden, de Europese Commissie en het Europese GNSS-Agentschap;
(met Bijlagen)
's-Gravenhage, 30 mei 2016*

B. TEKST¹⁾

Agreement on the hosting of the Galileo Reference Centre between the Kingdom of the Netherlands, the European Commission and the European GNSS Agency

The Kingdom of the Netherlands

and

The European Commission

and

The European GNSS Agency

Hereinafter "the Parties"

Having regard to the Treaty on the European Union, in particular Protocol No 7 on the Privileges and Immunities of the European Union attached to the Treaty on the European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community;

Having regard to Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council¹⁾ (hereinafter the "GNSS Regulation");

Having regard to Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council²⁾;

Having regard to Commission Implementing Decision (EU) 2016/413 of 18 March 2016 determining the location of the ground-based infrastructure of the system established under the Galileo programme and setting out the necessary measures to ensure that it functions smoothly, and repealing Implementing Decision 2012/117/E³⁾ (hereinafter the "Implementing Decision").

Whereas the GNSS Regulation provides that the system established under the Galileo programme shall be a civil system under civil control and an autonomous global navigation satellite system ("GNSS") infrastructure consisting of a constellation of satellites and a global network of ground stations and the GNSS Regulation also provides that the European Union shall be the owner of all tangible and intangible assets created or developed under the Galileo and EGNOS programmes and whereas in addition, pursuant to Article 12(1) of the same Regulation, the Commission has the overall responsibility for the Galileo programme;

Whereas the global network of ground-based stations as part of the Galileo programme includes the Galileo Reference Centre (hereinafter "GRC");

¹⁾ De tekst van de Bijlagen is niet opgenomen. Deze ligt ter inzage bij de afdeling Verdragen van het Ministerie van Buitenlandse Zaken.

¹⁾ OJ L 347, 20.12.2013, p.1

²⁾ OJ L 276, 20.10.2010

³⁾ OJ L 74, 19.3.2016, p.45

Whereas pursuant to Article 14(2) of the GNSS Regulation the Commission entrusted the European GNSS Agency⁴⁾ with programme management tasks in the exploitation phase of the Galileo programme. These tasks, which are detailed in a delegation agreement concluded between the Commission and the European GNSS Agency in 2014, include the responsibility for the operation and maintenance of the GRC. In order to carry out the entrusted tasks, the European GNSS Agency may locate on a permanent basis some of its staff at the GRC;

Whereas the Implementing Decision provides that the GRC will evaluate the quality of the services provided and communicate time and geodetic references to the user communities and that the GRC should be developed in stages in the Netherlands;

Whereas in compliance with the Implementing Decision an agreement should be concluded to ensure the best possible conditions for the hosting and the proper functioning of the GRC;

Have agreed as follows:

Article 1

Use of Terms

1.1 "Agreement" means this Agreement between the Kingdom of the Netherlands, the European Commission and the European GNSS Agency on the Hosting of the GRC, including its Annexes, and any future amendments to the Agreement or its Annexes;

1.2 "Agency" means the European GNSS Agency set up under Regulation (EU) No 912/2010;

1.3 "Commission" means the European Commission;

1.4 "Competent authorities" means national, provincial, municipal and other official authorities under the laws, regulations and customs of the Hosting State;

1.5 "GRC" means the Galileo Reference Centre referred to in the Implementing Decision, comprising the GRC Equipment and hosted in the GRC Facilities provided by the Hosting State;

1.6 "GRC Facilities" means all real estate property, premises and assets provided by the Hosting State in relation to the GRC, including land, building and the infrastructure defined in Annex 1;

1.7 "GRC Equipment" means the equipment procured by the Agency that is necessary for the operation of the GRC;

1.8 "GRC Seconded National Experts" means staff employed by a national, regional or local public administration or a public intergovernmental organisations, who are seconded to the Agency so that it can use their expertise in a particular field and have the GRC Facilities designated as their place of work; the GRC Seconded National expert employer continues to pay his salary throughout the period of secondment;

1.9 "GRC Staff" means the servants employed by the Agency, other than GRC Seconded National Experts, who are designated to work at the GRC Facilities as their place of work;

1.10 "Designated Entities" means one or more public or private entities entrusted by the Commission or the Agency with specific tasks related to the operation of the GRC, the name and responsibilities of which the Commission or the Agency has notified to the Hosting State as being a Designated Entity within the meaning of the Agreement;

1.11 "Hosting State" means the Kingdom of the Netherlands; where the Kingdom of the Netherlands is concerned, the Agreement shall apply to the European part of the Netherlands only;

1.12 "Protocol" means Protocol No 7 on the Privileges and Immunities of the European Union attached to the Treaty on the European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community;

1.13 "Family member forming part of the household" means:

- a) a spouse;
- b) a stable non-marital partner, under the conditions laid down in Article 1(2)(c) of Annex VII to Council Regulation (EEC) No 259/68 ("EU Staff Regulations");
- c) any dependent child as defined in Article 2(2) of Annex VII to the EU Staff Regulations;

⁴⁾ C(2014) 809, 14.2.2014

- d) any person living with a member of the GRC Staff whom the GRC Staff has a legal responsibility to maintain and whose maintenance involves heavy expenditure under the conditions set out in Article 2(4) of Annex VII of the EU Staff Regulations.

Article 2

Object and Purpose

This Agreement shall implement the Protocol on the Privileges and Immunities of the European Union and regulate other matters relating to or arising out of the establishment and the proper and continuous functioning of the GRC in the Netherlands. It shall create conditions conducive to the stability and independence of the GRC and facilitate its smooth and efficient functioning.

Article 3

GRC Site

The GRC shall be hosted in Noordwijk, the Netherlands. The GRC shall be clearly identified and separated from the rest of the facilities of the site where it is hosted.

Article 4

Responsibilities

4.1 The Hosting State shall provide to the European Union the GRC Facilities in accordance with the conditions set out in Annex 1. The Hosting State shall be financially responsible for the costs as set out in Annex 2.

4.2 The Hosting State shall provide the GRC Facilities no later than 1 May 2017 in compliance with the requirements set out in Annex 1. Pending the availability of the GRC Facilities, the Hosting State shall, as of 1 January 2017, make available temporary facilities, in compliance with the requirements set out in Annex 1, and pay the associated costs to cover the needs of the GRC operation until the provision of the GRC Facilities.

4.3 The Commission shall in the context of its overall responsibility for the Galileo programme in accordance with the GNSS Regulation, oversee the implementation of GRC activities.

4.4 The Agency shall ensure, under powers delegated to it by the Commission in accordance with the GNSS Regulation, the procurement, the deployment and the qualification of the GRC Equipment, the selection of the entity in charge of the operation of the GRC and the provision of the associated hosting services.

Article 5

Ownership

5.1 The Hosting State shall be the owner of the GRC Facilities.

5.2 The European Union shall be the owner of the GRC Equipment.

Article 6

Use, access and protection

6.1 The Commission and, within the scope of their respective responsibilities, the Agency and the Designated Entities shall have the exclusive right to use the GRC Facilities.

6.2 The Hosting State shall ensure the continuous and unhindered access to and from the GRC Facilities of persons, goods and equipment authorised by the Commission and, within the scope of their respective responsibilities, by the Agency and the Designated Entities.

6.3 The Hosting State shall take all measures necessary for the protection of the GRC Facilities and for the maintenance of order in its vicinity, including, where appropriate, the provision of adequate police protection. Such measures shall be at least equivalent to those required for the protection of European critical infrastructures within the meaning of Council Directive 2008/114/EC.

6.4 The Commission and, within the scope of their respective responsibilities, the Agency and the Designated Entities shall provide the competent authorities of the Hosting State with all information relevant to the security and protection of the premises.

Article 7

Application of the Protocol

The Protocol shall apply to the GRC, the GRC Staff and members of their household.

Article 8

Inviolability

8.1 The premises and buildings of the GRC Facilities shall be inviolable. They shall be exempt from search, requisition, confiscation and expropriation by the competent authorities of the Hosting State. The property and assets of the European Union and of the Agency related to the GRC operation shall not be subject to any administrative or legal measure or constraint, whether by executive, administrative, judicial or legislative action, without the prior authorisation of the Court of Justice of the European Union.

8.2 No official of the Hosting State authorities shall enter the GRC Facilities without the approval of the Commission's authorised representative or, within the scope of their respective responsibilities, of the authorised representative of the Agency and/or of the Designated Entities. Such approval shall be presumed in the case of a major emergency (fire or other disaster) which could constitute a danger to public health, safety and security.

8.3 The archives of the European Union and of the Agency related to the GRC operation and all papers and documents in whatever form and materials including classified information, crypto equipment or any other related security information, being sent from or to the GRC, wherever located and by whomsoever held, shall be inviolable.

8.4 Without prejudice to the terms of the Agreement, the GRC Facilities shall not become a refuge from justice for persons subject to extradition or deportation, or who are avoiding arrest or service of legal process under the law of the Hosting State.

Article 9

Law and authority on the premises

9.1 The GRC Facilities shall be under the exclusive control of the Commission and, within the scope of their respective responsibilities, the Agency and the Designated Entities in accordance with this Agreement.

9.2 Except as otherwise provided in the Agreement and/or in the applicable European Union law, the laws and regulations of the Hosting State shall apply on the premises. The Commission shall inform the Hosting State of any newly adopted European Union regulations and rules which would apply to the premises.

Article 10

Official Communications

10.1 The Hosting State shall permit and protect unrestricted official communication related to the GRC operation.

10.2 The official communications and transmission of all the documents related to the GRC operation shall be treated in a manner equivalent to that accorded by the Hosting State to diplomatic missions.

Article 11

Flag

The European Union flag and the flag with the Agency's emblem is authorised to fly on the exterior of the buildings where the GRC Facilities are located.

Article 12

Fiscal and Customs treatment of GRC

12.1 Any assets, revenue or other property of the European Union or the Agency used within the scope of GRC shall be exempt from all direct taxes, charges, fiscal duties or other levies.

12.2 Within the scope of the GRC operation, the European Union and Agency revenues as well as loans and payments related to the GRC operation shall be exempt from:

- a) import and export taxes and duties ("belastingen bij invoer en uitvoer");
- b) motor vehicle tax ("motorrijtuigenbelasting", "MRB");
- c) tax on passenger motor vehicles and motor cycles ("belasting van personenauto's en motorrijwielen", "BPM");
- d) value added tax ("omzetbelasting", "BTW") paid on goods and services supplied on a recurring basis or involving expenditure totaling € 250 or more;
- e) excise duties ("accijnzen") included in the price of alcoholic beverages and hydrocarbons such as fuel oils and motor fuels;
- f) real property transfer tax ("overdrachtsbelasting");
- g) insurance tax ("assurantiebelasting");
- h) energy tax ("energiebelasting");
- i) tax on water mains ("belasting op leidingwater", "BOL");
- j) and other indirect taxes or duties of a substantially similar character as the taxes provided for in this paragraph, enacted by the Hosting State subsequent to the date of signature of the Agreement.

12.3 The exemptions provided for in paragraph 2, sub-paragraphs d), e), f), g), h), i) and j) of this Article shall be granted by way of a refund.

12.4 Goods acquired or imported under the terms set out in paragraph 2 of this Article shall not be sold, loaned, given away, or otherwise disposed of, except in accordance with conditions agreed upon with the Hosting State.

12.5 The European Union and the Agency shall not claim exemption from taxes which are, in fact, no more than charges for public utility services established at a rate according to the amount of services rendered and which can be specifically identified, described and itemised.

Article 13

Exemption from import and export restrictions

The European Union and the Agency shall be exempt from prohibitions and restrictions on imports and exports in respect of goods and publications intended for the official use of the GRC operation. Such exemption should be subject to compliance with the limitations pursuant to Article 4 of the Protocol.

Article 14

GRC Staff

14.1 Without prejudice to applicable European Union law, GRC Staff shall enjoy within the Hosting State the following privileges and immunities:

- a) immunity from legal procedures of any kind in respect of words spoken or written, and all acts performed by them in the exercise of their official functions, even if they are no longer active GRC Staff;
- b) immunity from seizure and inspection of official baggage;
- c) inviolability of all papers, documents, in whatever form, and materials relating to the performance of their official functions;
- d) exemption from taxation on salaries, wages, emoluments, and allowances paid by the European Union or the Agency;
- e) exemption with respect to themselves, and family members forming part of the household, from immigration restrictions and alien registration;
- f) freedom with respect to themselves to acquire and maintain within the Hosting State or elsewhere foreign currency accounts and other movable property (including a motor vehicle for personal use), and under the same conditions applicable to nationals of the Hosting State, immovable property; and upon the termination of their professional activities with the GRC to take their funds out of the Hosting State through authorised channels without prohibitions or restrictions;
- g) the same protection and repatriation facilities with regard to themselves and family members forming part of the household, as accorded in time of international crisis to members having comparable rank of the staff of diplomatic missions established in the Kingdom of the Netherlands;
- h) exemption with respect to themselves, from import duties, in respect of their furniture and personal effects, including a motor vehicle for personal use, at the time of first taking up their position in the Hosting State, in accordance with applicable European Union law; however no exemption shall be accorded in respect of taxes and duties which represent charges for specific services;
- i) exemption with respect to themselves, from export duties, in respect of their furniture and personal effects, including a motor vehicle for personal use within one year from the time of ceasing their position in the Hosting State.

14.2 In addition to the privileges, immunities, and facilities listed in paragraph 1 of this article, GRC Staff in posts categorized AD 9 and higher, together with their family members forming part of their household, shall be accorded the same privileges and immunities as accorded to diplomatic agents of the diplomatic missions established in the Hosting State in accordance with the Vienna Convention.

14.3 In addition to the privileges, immunities, and facilities listed in paragraph 1 of this article, GRC Staff in posts categorized AD 8 and below, together with their family members forming part of their household, shall be accorded the same privileges and immunities as accorded to administrative, technical and service staff of the diplomatic missions established in the Hosting State in accordance with the Vienna Convention, provided that the immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties.

14.4 The privileges and immunities set out in paragraphs 2 and 3 of this article shall not apply to the GRC staff who are nationals or permanent residents of the Hosting State nor to their family members forming part of their household.

Article 15

GRC Seconded national experts

15.1 The GRC Seconded National Experts shall be subject to the "Decision on the Administrative Board laying down rules on the secondment to the Agency of national experts and national experts in professional training".

15.2 Any emoluments, allowances and other payments made by the Agency to GRC Seconded National Experts shall be exempt from national taxes.

Article 16

Representatives of Member States taking part in the work of the GRC

Representatives of Member States taking part in the work of the GRC, their advisers and technical experts shall in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

Article 17

Social security

17.1 The GRC Staff and Family Members Forming Part of the Household shall be exempt from compulsory social security contributions in the Hosting State, provided that the person concerned is covered by the relevant provisions under the Staff Regulations. This exemption applies to Family Members Forming Part of the Household unless they take up gainful activity in the hosting State outside the GRC.

17.2 For as long as they remain covered by the social security system of the country from which they are seconded to the GRC, the GRC Seconded National Experts shall be exempt from all compulsory contributions to the social security system of the Hosting State.

17.3 The Agency shall be exempt from any compulsory contributions to social security schemes in the hosting State for the GRC Staff, the GRC Seconded National Experts and Members Forming Part of their Household.

Article 18

Notification and Identification Cards

18.1 The Agency shall promptly, and no later than eight days after their first arrival, notify the Protocol Department of the Ministry of Foreign Affairs of the Hosting State of:

- a) the appointment of GRC Staff;
- b) the appointment of GRC Seconded National Experts;
- c) the date of the arrival of the persons referred to in sub-paragraph a) and b) of this Article and their final departure or the termination of their functions with the GRC;
- d) the arrival and final departure date of Family Members Forming Part of the Household of the persons referred to in subparagraph a) and b) of this Article and, where appropriate, the fact that a person has ceased to form part of the household;
- e) the arrival and final departure date of private servants of persons referred to in Article 14, paragraph 2, and, where appropriate, the fact that they are no longer employed by such persons.

18.2 The Hosting State shall issue an identity card bearing the photograph of the holder which shall serve to identify the holder in relation to the competent authorities, to

- a) GRC Staff members and GRC Seconded National Experts;
- b) Members Forming Part of the Household of the persons referred to in subparagraph 18.2(a) of this Article;
- c) private servants.

18.3 The identity card shall also serve as a residence permit and a proof of privileges and immunities bestowed upon the individual person according to this Agreement.

Article 19

Public services

19.1 The Hosting State shall do its utmost to ensure that the GRC is supplied with the public services necessary for the GRC operation. In case of any interruption or threatened interruption to such services, the Hosting State shall take reasonable steps to ensure that the GRC operation is not prejudiced.

19.2 Public services for the purpose of the Agreement include, in particular, electricity, water, sewerage, fire protection, refuse collection, gas, post, the Internet and telephone.

19.3 The Commission shall pay the costs corresponding to the provision of the public services.

Article 20

Cooperation by the Hosting States authorities

The competent authorities of the Hosting State shall co-operate at all times with the Commission, and within the scope of their respective responsibilities, with the Agency and the Designated Entities to facilitate the application of the Agreement.

Article 21

Annexes

The following Annexes shall form integral parts of the Agreement:

ANNEX 1: technical requirements;

ANNEX 2: roles and responsibilities in the realisation and exploitation of the GRC.

Article 22

Communication

22.1 All communication in relation to the Agreement shall be done in writing between the authorised representatives of the Parties.

22.2 The Parties shall designate and inform each other of their respective appropriate contact points responsible for the implementation of the Agreement.

Article 23

Applicable law

European Union law applies to the Agreement supplemented by the national law of the Hosting State where there are no relevant provisions of European Union law.

Article 24

Settlement of disputes

24.1 All disputes relating to the application and interpretation of the Agreement and its Annexes shall, where possible, be settled amicably by direct negotiations between the Parties.

24.2 Any dispute not solved by direct negotiations shall be examined by an ad hoc group comprising one member appointed by each of the Parties respectively.

24.3 In the event of failure to settle a dispute in accordance with the procedure set out in the previous paragraphs, one of the Parties shall refer the dispute to the Court of Justice of the European Union, having given the other Parties two months' notice in advance of its intention to do so.

Article 25

Final provisions

25.1 Nothing in the Agreement shall be interpreted as restricting or adversely affecting the right of the Hosting State to take precautions necessary for its security. Whenever the Hosting State intends to take such precautions, it shall inform the Commission and within the scope of its responsibilities the Agency as soon as circumstances allow in order to determine by mutual agreement the measures necessary to protect the interest of the GRC and of the European Union.

25.2 The Agreement shall enter into force on the date of its signature by the Parties.

25.3 The Agreement shall remain in force until 31 December 2036. Subsequently, it shall be automatically renewed for consecutive periods of 20 years if none of the Parties gives notice at least two years before the expiry of that particular period.

25.4 The Agreement may be amended, by mutual written agreement of the Parties.

DONE at The Hague, on 30 May 2016, in three originals in the English language.

For the Kingdom of the Netherlands,

MELANIE SCHULTZ VAN HAEGEN
Minister of Infrastructure and Environment

For the European Commission,

ELŻBIETA BIEŃKOWSKA
Commissioner for Internal Market, Industry, Entrepreneurship and SMEs

For the European GNSS Agency,

CARLO DES DORIDES
Executive Director

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 7, onderdeel a, van de Rijkswet goedkeuring en bekendmaking verdragen juncto artikel 3 van de Wet van 24 december 1947 (Stb. H 452) houdende goedkeuring van het Verdrag nopens de voorrechten en immuniteiten van de Verenigde Naties niet de goedkeuring van de Staten-Generaal.

G. INWERKINGTREDING

De bepalingen van het Verdrag, met Bijlagen, zijn ingevolge artikel 25, tweede lid, op 30 mei 2016 in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag, met Bijlagen, voor Nederland (het Europese deel).

Koninkrijk der Nederlanden

Land	Voorlopige toepassing	In werking	Terugwerkende kracht	Buiten werking
Nederland (in Europa)		30-05-2016		
Nederland (Bonaire)				
Nederland (Sint Eustatius)				
Nederland (Saba)				
Aruba				

Land	Voorlopige toepassing	In werking	Terugwerkende kracht	Buiten werking
Curaçao				
Sint Maarten				

J. VERWIJZINGEN

Titel : Verdrag tot oprichting van de Europese Gemeenschap voor Atoomenergie (EURATOM);
Rome, 25 maart 1957

Tekst : *Trb.* 2008, 52 (geconsolideerd)

Laatste *Trb.* : *Trb.* 2010, 247

Titel : Verdrag betreffende de werking van de Europese Unie;
Rome, 25 maart 1957

Tekst : *Trb.* 2008, 51 (geconsolideerd)

Laatste *Trb.* : *Trb.* 2013, 83

Titel : Verdrag betreffende de Europese Unie;
Maastricht, 7 februari 1992

Tekst : *Trb.* 2008, 53 (geconsolideerd)

Laatste *Trb.* : *Trb.* 2012, 182

Titel : Verdrag van Wenen inzake diplomatiek verkeer;
Wenen, 18 april 1961

Tekst : *Trb.* 1962, 101 (Engels en Frans)

Trb. 1962, 159 (vertaling)

Laatste *Trb.* : *Trb.* 1994, 212

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat het Verdrag, met Bijlagen, zal zijn bekendgemaakt in Nederland (het Europese deel) op de dag na de datum van uitgifte van dit Tractatenblad.

Uitgegeven de *derde* juni 2016.

De Minister van Buitenlandse Zaken,

A.G. KOENDERS