

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2018 Nr. 71

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## A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en het Europees Geneesmiddelenbureau betreffende de vestiging van het Europees Geneesmiddelenbureau; 's-Gravenhage, 1 juni 2018*

Voor een overzicht van de verdragsgegevens, zie verdragsnummer 013559 in de Verdragenbank.

## B. TEKST

### **Agreement between the Kingdom of the Netherlands and the European Medicines Agency on the hosting of the European Medicines Agency**

The Kingdom of the Netherlands

and

the European Medicines Agency,

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

Having regard to Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency;

Having regard to the decision of the Member States in the margins of the General Affairs Council meeting of 20 November 2017 to relocate the seat of the European Medicines Agency in Amsterdam, the Netherlands;

Whereas Article 74 of Regulation (EC) No. 726/2004 provides that the Protocol shall apply to the Agency and to its staff;

Whereas Article 75 of Regulation (EC) No 726/2004 provides that the Staff Regulations of officials of the European Union, the Conditions of Employment of Other Servants of the European Union and the rules adopted jointly by the institutions of the European Union for the purposes of the application of those Staff Regulations and Conditions of Employment shall apply to the staff of the Agency;

Whereas further administrative provisions must be agreed for the implementation of the Protocol, in particular to lay down conditions concerning the privileges, immunities, facilities, and services of and related to the Agency and its staff in the territory of the Kingdom of the Netherlands as necessary for the fulfilment of the purposes of the Agency;

Have agreed as follows:

Article 1.

#### *Definitions*

- a) "Agreement" means this Agreement between the Kingdom of the Netherlands and the European Medicines Agency on the hosting of the European Medicines Agency and any future amendments to the Agreement;
- b) "host State" means the Kingdom of the Netherlands;

- c) "the Agency" means the European Medicines Agency established by Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency, and subsequent amendments;
- d) "Staff Regulations and the CEOS" means the Staff Regulations of Officials of the European Union and the Conditions of Employment of the Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68;
- e) "Parties" means the Agency and the host State;
- f) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961;
- g) "Head of the Agency" means the Executive Director of the Agency;
- h) "staff" or "staff member" means personnel employed by the Agency, subject to the Staff Regulations and the CEOS, including the Head of the Agency;
- i) "seconded national experts" means personnel employed by an EU/EEA national, regional or local public administration or a public intergovernmental organisation and seconded to the Agency. A seconded national expert shall in no case fall under the definition of staff of the Agency;
- j) "trainee" means any person working at the Agency for apprentice purposes. A trainee shall in no case fall under the definition of staff of the Agency or seconded national experts;
- k) "members of the household" means:
  - (i) a spouse of a staff member, irrespective of his/her nationality and/or sex;
  - (ii) a stable non-marital partner of a staff member, under the conditions laid down in Article 1(2)(c) of Annex VII to the Staff Regulations and the CEOS, irrespective of his/her nationality and/or sex;
  - (iii) any dependent child as defined in Article 2(2) of Annex VII to the Staff Regulations and the CEOS;
  - (iv) any person whom a staff member has a legal responsibility to maintain and whose maintenance involves heavy expenditure under the conditions set out in Article 2(4) of Annex VII to the Staff Regulations and the CEOS;
- l) "premises" means buildings, parts of buildings and areas, including installations and facilities of the headquarters made available to, maintained, occupied or used by the Agency in the host State in connection with its functions and purposes;
- m) "property" means all property (be it material, real, or intellectual), assets, and funds belonging to the Agency or held, administered or otherwise used by the Agency in connection with its functions and purposes;
- n) "Ministry of Foreign Affairs" means the Ministry of Foreign Affairs of the host State;
- o) "competent authorities" means national, provincial, municipal and other official authorities under the laws, regulations and customs of the host State;
- p) "Protocol" means Protocol No 7 on the Privileges and Immunities of the European Union annexed 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.

## Article 2.

### *Object and Purpose*

This Agreement shall implement the Protocol and regulate other matters relating to or arising out of the establishment and the proper and continuous functioning of the Agency in the host State. It shall, *inter alia*, create conditions conducive to the stability and independence of the Agency and facilitate its smooth and efficient functioning.

## Article 3.

### *Legal status and legal personality*

According to Article 71 of Regulation (EC) No 726/2004, the Agency shall have legal personality. The Agency shall possess in the host State the most extensive legal capacity accorded to legal persons under the laws of the host State. This shall, in particular, include the capacity:

- a) to acquire and dispose of movable and immovable property;
- b) to enter into contracts and other types of agreements, including agreement to operate bank accounts and engage in other banking and financial transactions;
- c) to employ persons;
- d) to participate in legal proceedings; and
- e) to take other legal action in connection with its functions and purposes.

## Article 4.

### *Premises*

1. The Agency shall have its seat in Amsterdam, the Netherlands.

2. Following consultations between the Agency and the Ministry of Foreign Affairs, the locations of the premises, in addition to the temporary and definitive headquarters of the Agency as referred to in paragraph 4 and 5 of this Article, require approval of the Ministry of Foreign Affairs, which approval will not be unreasonably withheld.
3. The host State supports the establishment of the Agency in Amsterdam by providing a suitable location in Amsterdam.
4. The definitive headquarter of the Agency will be in the building located at Domenico Scarlattilaan 1, Amsterdam, in the Zuidas district of Amsterdam. The use of the premises by the Agency shall be governed by a Lease Agreement with the Ministry of the Interior and Kingdom Relations, legally represented by the State Secretary, represented in this matter by the Director General of the Central Government Real Estate Agency (CGREA).
5. The Agency shall be temporarily hosted by the Dutch Government at the Spark building in the Sloterdijk area of Amsterdam and shall use these temporary premises in accordance with the terms and conditions separately agreed upon by the Parties. Upon request of EMA to use additional buildings or parts thereof in connection with its functions and purposes, during the period that EMA is hosted at the Spark building, the host State will ensure that the competent authorities are informed of the applicability of this Agreement to these buildings or parts thereof.
6. The Agency may display such signs, plaques, flags, and emblems on the premises as it deems appropriate.
7. The Agency shall be exclusively entitled to display its emblem on the premises of the Agency and on its means of transport.

#### Article 5.

##### *Application of the Protocol*

1. The Protocol shall apply to the Agency and the staff members.
2. Members of the household of staff shall enjoy the privileges and immunities as set forth in this Agreement.
3. All references in the Protocol to the European Union shall be understood as references to the Agency, for the purposes of this Agreement. All references in the Protocol to officials and other servants of the European Union should be understood as references to staff of the Agency, for the purposes of this Agreement.

#### Article 6.

##### *Inviolability of the premises*

1. The premises shall be inviolable. They shall be exempt from search, requisition, confiscation, expropriation or any form of seizure. The competent authorities shall ensure that the Agency is not dispossessed and/or deprived of all or any part of its premises without its express consent.
2. The competent authorities shall not enter the premises to perform any official duty, except with the express consent, or at the request of the Head of the Agency, or a staff member designated by him or her. The service of judicial and extrajudicial documents at the premises of the Agency and of any other procedural instruments relating to a cause of action against the Agency shall not constitute a breach of inviolability.
3. The property and assets of the Agency shall be inviolable. Any administrative or legal measure of enforcement, whether by executive, administrative, judicial or legislative action may only be taken with the authorisation of the Court of Justice of the European Union.
4. The execution of judicial measures concerning the seizure of private property of staff cannot be enforced on the premises except with the consent of, and in accordance with the conditions approved by the Head of the Agency, or a staff member designated by him or her.
5. The archives of the Agency as well as all documents and data belonging to the Agency or held by it, wherever located, shall be inviolable.
6. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur on the

premises that requires protective action, the consent of the Head of the Agency, or a staff member designated by him or her, to any necessary entry into the premises shall be presumed if neither of them can be contacted in time.

7. Subject to paragraphs 1, 2, 3 and 4 of this Article, the competent authorities shall take the necessary action to protect the premises against fire or other emergency which could constitute a danger for public health and safety.

8. The Agency shall prevent its premises from being used as a refuge by persons who are avoiding arrest or the proper administration of justice under any law of the host State.

#### Article 7.

##### *Security and protection of the premises and their vicinity*

1. The host State shall exercise due diligence to ensure that the security and tranquillity of the premises are not impaired by any person or group(s) of persons attempting unauthorized entry into or onto the premises or creating disturbances in the immediate vicinity. As may be required for this purpose, the host State shall provide adequate police protection on the boundaries and in the vicinity of the Agency premises.

2. In accordance with Article 8, paragraph 1, the Agency may adopt internal rules and procedures necessary to ensure security and maintenance of good order inside the premises. The Agency may, in particular, refuse access to its premises or expel any person considered undesirable from its premises.

3. The Agency may appoint security guards and bodyguards to protect its premises, staff and visitors, in accordance with the laws and regulations of the host State.

#### Article 8.

##### *Law and authority on the premises*

1. The premises shall be under the control and authority of the Agency as provided for in this Agreement.

2. Except as otherwise provided in this Agreement and/or in the applicable European Union legal framework, the laws and regulations of the host State shall apply on the premises. The Agency shall promptly inform the host State of any newly adopted European Union regulations and rules which would apply to the premises.

#### Article 9.

##### *Public services for the premises*

1. The competent authorities will take appropriate steps to ensure, upon the request of the Head of the Agency, or a staff member designated by him or her, on fair and equitable conditions, the public services needed by the Agency such as, but not limited to, postal, telephone, telegraphic services, any means of communication, electricity/energy, water, gas, sewage, collection of waste, fire protection, local transportation and cleaning of public streets, including snow removal.

2. In cases where the services referred to in paragraph 1 of this Article are made available to the Agency by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest comparable rates accorded to essential agencies and organs of the host State.

3. In case of any interruption or threatened interruption of any such services, the Agency shall be accorded the priority given to essential agencies and organs of the host State, and the host State shall take steps accordingly to ensure that the work of the Agency is not prejudiced.

4. Upon request of the competent authorities, the Head of the Agency, or a staff member designated by him or her, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises under conditions which shall not unreasonably disturb the carrying out of the functions of the Agency.

5. Underground constructions may be undertaken by the competent authorities on the premises only after consultation with the Head of the Agency, or a staff member designated by him or her, and under conditions which shall not disturb the carrying out of the functions of the Agency.

## Article 10.

### *Official Communications*

1. The host State shall permit and protect unrestricted official communication related to the operation of the Agency.
2. The official communications and transmission of all the documents related to the operation of the Agency shall be treated in a manner equivalent to that accorded by the host State to diplomatic missions.

## Article 11.

### *Absence of restrictions for financial assets*

The Agency may purchase, receive, convert and hold any kind of funds, currency, cash or securities. It may use or dispose of them freely for any official activity and hold accounts in any currency to the extent required to meet its obligations, in accordance with the applicable EU legislation.

## Article 12.

### *Funds, assets, and other property*

1. The Agency, its funds, assets and other property of the Agency, wherever located and by whomsoever held, shall enjoy immunity from every form of legal proceedings in the host State.
2. Funds, assets and other property of the Agency, wherever located and by whomsoever held, shall, in the host State, be immune from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
3. The Head of the Agency may waive the immunity from jurisdiction in respect of legal proceedings of the funds, assets and other property of the Agency. Such a waiver shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary.
4. To the extent necessary to carry out the functions of the Agency, funds, assets and other property of the Agency, wherever located and by whomsoever held, shall be exempt from restrictions, regulations, control or moratoria of any nature, except as provided for in this Agreement.

## Article 13.

### *Fiscal and Customs treatment of the Agency*

1. Within the scope of its official activities, the Agency, its assets, income and other property shall be exempt from all direct taxes, whether levied by national, provincial or local authorities.
2. Within the scope of its official activities, the Agency shall be exempt from the following indirect taxes:
  - 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 totalling € 225 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"); and
  - i) tax on water mains ("belasting op leidingwater", "BOL").
3. In addition to the exhaustive list of indirect taxes mentioned in paragraph 2 of this Article, within the scope of its official activities, the Agency shall be exempt from any other indirect taxes or duties of a substantially similar character as the taxes provided for in this paragraph, enacted by the host State subsequent to the date of signature of the Agreement.
4. The exemptions provided for in paragraph 2, sub-paragraphs d), e), f), g), h) and i) and in paragraph 3 of this Article shall be granted by way of a refund.

5. Goods acquired under the terms set out in paragraph 2 of this Article shall not be sold, loaned or donated, except in accordance with conditions agreed upon with the host State.

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

#### Article 14.

##### *Exemption from import and export restrictions*

1. The Agency shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of goods and publications intended for its official use.

2. Goods so imported shall not be sold, loaned or donated, whether or not in return for payment, in the host State, except under conditions approved by the host State.

#### Article 15.

##### *Entry, stay and departure*

1. Without prejudice to the applicable rules of the European Union with regard to citizens of a Member State of the European Union, the European Economic Area, or Switzerland or their family members and upon request of the Agency the host State shall facilitate the entry, stay, and departure from its territory for purposes of official business of the persons listed below:

- a) members of the Management Board as referred to in Regulation (EC) No 726/2004;
- b) members of the scientific committees of the Agency as listed by Regulation (EC) No 726/2004 and the experts which form part of their delegation;
- c) members of any other organs of the Agency;
- d) staff and members of their household, irrespective of their nationality and/or sex;
- e) persons in the personal employ of persons referred to in Article 17, paragraph 2 and 3;
- f) seconded national experts of the Agency;
- g) other persons invited to the premises or to meetings of the Agency upon request of the Head of the Agency, the Chair of the Agency's Management Board or the Chair of the relevant scientific committee.

2. This Article shall not prevent the requirement of reasonable evidence to be provided by the Agency to establish that persons claiming the treatment provided for in this Article fall under one of the categories in paragraph 1 above.

3. Visas which may be required by persons referred to in this Article shall be issued to such persons without charge and as promptly as possible.

4. The host State may attach such conditions or restrictions to the visa of the persons referred to in paragraph 1 (g) of this Article as may be necessary to prevent violations of its public order or to protect the safety of the person concerned.

5. Before applying paragraph 4 of this Article, the host State will seek observations from the Agency.

6. All aforementioned persons who are entitled to privileges and immunities shall enjoy them from the moment they enter the territory of the host State to take up their posts or to undertake official activities or to accompany staff, as members of their household, and shall come to an end within eight days after the expiry or termination of their contracts of employment or completion of their Agency-related duties.

#### Article 16.

##### *Privileges, immunities, and facilities of members of Management Board and of other organs of the Agency*

1. Without prejudice to the Protocol, the officially appointed members of the Agency's Management Board and of the other organs referred to in Article 15, paragraph 1, of this Agreement, shall enjoy the following privileges, immunities, exemptions and facilities as are necessary for the independent performance of their functions:

- a) immunity from legal proceedings of every kind in respect of words spoken or written and all acts performed by them in their official capacity, which immunity shall continue to be accorded even after they have ceased to perform their functions for the Agency;
- b) immunity from seizure and inspection of official baggage;
- c) immunity from national service obligations;
- d) exemption from immigration restrictions and alien registration;

- e) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles the import or export of which is prohibited by law or controlled by the quarantine regulations of the host State; an inspection in such a case shall be conducted in the presence of the member concerned;
  - f) the same repatriation facilities in time of international crisis as are accorded to diplomatic agents under the Vienna Convention;
  - g) remuneration, honoraria and allowances paid by the Agency to the members of the Management Board shall be exempt from taxes and social security obligations in the host State.
2. Persons covered by this Article shall not be subjected by the host State to any measure which may affect the free and independent performance of their official functions.

#### Article 17.

##### *Privileges, immunities and facilities of staff members of the Agency*

1. In accordance with the provisions of the Protocol, staff members of the Agency, irrespective of their nationality and/or sex, shall enjoy the following privileges, immunities, exemptions and facilities, which are necessary for the independent performance of their functions:
- a) immunity from legal proceedings of any kind in respect of words spoken or written, and all acts performed by them in the exercise of their official functions, even after they have ceased to perform their functions for the Agency;
  - b) immunity from seizure and inspection of their official baggage;
  - c) immunity from national service obligations;
  - d) inviolability of all papers, documents, in whatever form, and materials relating to the performance of their official functions;
  - e) exemption from taxation on salaries, wages, emoluments, and allowances paid by the Agency;
  - f) exemption with respect to themselves, and members of their household, from immigration restrictions and alien registration;
  - g) freedom with respect to themselves to acquire and maintain within the host 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 host State, immovable property; upon the termination of their employment with the Agency freedom to take their funds out of the host State through authorized channels without prohibitions or restrictions;
  - h) 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;
  - i) exemption 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 host State, in accordance with the Protocol; however no exemption shall be accorded in respect of charges levied for specific services rendered;
  - j) exemption 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 host State.
2. In addition to the privileges, immunities, and facilities listed in paragraph 1 of this Article, the Head of the Agency, together with the members of his or her household, shall be accorded the same privileges and immunities as are accorded by the host State to heads of diplomatic missions in accordance with the Vienna Convention.
3. In addition to the privileges, immunities, and facilities listed in paragraph 1 of this Article, the highest ranking staff of the Agency, together with the members of their household, shall be accorded the same privileges and immunities as are accorded by the host State to diplomatic agents of the diplomatic missions in accordance with the Vienna Convention.
4. In addition to the privileges, immunities, and facilities listed in paragraph 1 of this Article, staff members other than those referred to in paragraph 3 of this Article, together with the members of their household, shall be accorded the same privileges and immunities as accorded by the host State to members of the administrative and technical staff of the diplomatic missions 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.
5. The host State shall, in cooperation with the Agency, determine which categories of staff will be covered by paragraph 3 and 4 of this Article.
6. Notwithstanding the provisions of paragraph 1 of this Article, staff members or members of their household, who are nationals or permanent residents of the host State, shall not enjoy the privileges and immunities set out in paragraphs 2, 3 and 4 of this Article.

Article 18.

*Seconded national experts*

1. Any emoluments, allowances and other payments that are paid by the Agency to the seconded national experts shall be exempt from taxation in the host State.
2. Seconded national experts shall be accorded immunity from legal proceedings in respect of words spoken or written and all acts performed by them in their official capacity for the Agency. This immunity shall continue after the cessation of their assignment.

Article 19.

*Personnel recruited locally and not otherwise covered by this Agreement, including such personnel assigned to hourly rates*

Personnel recruited locally and assigned to hourly rates by the Agency ("interim workers") and not otherwise covered by this Agreement shall be accorded immunity from legal proceedings in respect of words spoken or written and all acts performed by them in their official capacity for the Agency. This immunity shall continue after the cessation of their assignment.

Article 20.

*Representatives of Member States taking part in the work of the Agency*

Representatives of Member States taking part in the work of the Agency, the advisers and technical experts forming part of their delegations 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 21.

*Social security*

1. Staff members of the Agency and members of the household are covered by the EU social security system, the Staff Regulations and CEOS and consequently shall be exempt from compulsory social security contributions in the host State. This exemption applies to members of the household unless they take up gainful activity in the host State outside the Agency.
2. Provided that they are not covered by the social security system of the host State, and for as long as they remain covered by the social security system of the country from which they are seconded to the Agency, seconded national experts shall be exempt from all compulsory contributions to the social security system of the host State.
3. The Agency shall be exempt from any compulsory contributions to social security schemes in the host State for staff members, members of their household and seconded national experts.

Article 22.

*Notification and Identification Cards*

1. The Agency shall promptly, but within eight (8) working days, notify the Ministry of Foreign Affairs of:
  - a) the date of commencement by a staff member of his or her duties;
  - b) the date of hiring of seconded national experts;
  - c) the date of acceptance by the Agency of trainees into the traineeship programme of the Agency;
  - d) the date of hiring of persons in the personal employ of persons referred to in Article 17, paragraph 2 and 3;
  - e) the date of hiring of personnel recruited locally in accordance with Article 19 of this Agreement.
2. In order to facilitate the entry and stay of the persons mentioned below the Agency will promptly, and preferably no later than eight (8) working days after the date of their first arrival in the host State, inform the Ministry of Foreign Affairs of:
  - a) the presence of staff members;
  - b) the presence of seconded national experts;
  - c) the presence of trainees;
  - d) the presence of members of the household of staff members;
  - e) the presence of persons in the personal employ of persons referred to in Article 17, paragraph 2 and 3;
  - f) the date of the arrival of the persons referred to in subparagraphs (a), (b), (c), (d), and (e) of this paragraph.



3. With respect to the persons referred to in paragraph 1 of this Article, the Agency shall promptly, but within eight (8) working days, notify the Ministry of Foreign Affairs of the termination of their functions, their final departure or the termination of their involvement with the Agency.
4. With respect to members of the household of staff members, the Agency shall, where appropriate, promptly, but within eight (8) working days, notify the Ministry of Foreign Affairs once a person has ceased to form part of the household.
5. With respect to persons in the personal employ of persons referred to in Article 17, paragraph 2 and 3, the Agency shall, where appropriate, promptly, but within eight (8) working days, notify the host State that a person is no longer in the personal employ of such person.
6. The Ministry of Foreign Affairs shall issue an identity card which shall serve to identify the holder in relation to the competent authorities to:
  - a) staff members who are assigned to serve in the host State;
  - b) members of the household of staff members;
  - c) seconded national experts;
  - d) trainees;
  - e) persons in the personal employ of persons referred to in Article 17, paragraph 2 and 3.
7. Upon request, the Ministry of Foreign Affairs shall issue an identity card which shall serve to identify the holder in relation to the competent authorities to personnel recruited locally in accordance with Article 19 of this Agreement.
8. At the final departure of the persons referred to in paragraph 1 of this Article or when these persons have ceased to perform their functions, the identity card referred to in paragraph 6 and 7 of this Article shall be returned promptly, and no later than within fifteen (15) days, by the Agency to the Ministry of Foreign Affairs. In case persons who have ceased to perform their functions are not able to return the identity card referred to in paragraph 6 and 7 of this Article within the specified time period, the Ministry of Foreign Affairs shall be consulted immediately.

#### Article 23.

##### *Employment of members of the household of staff members of the Agency*

1. Without prejudice to the applicable rules of the European Union with regard to citizens of a Member State of the European Union, the European Economic Area, or Switzerland or their family members, members of the household of a staff member of the Agency, irrespective of nationality and/or sex, shall be authorized to engage in gainful employment in the host State for the duration of the term of office of the staff member concerned.
2. Members of the household of a staff member of the Agency who obtain gainful employment shall enjoy, under this Agreement, no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment. However, any measures of execution shall be taken without infringing the inviolability of their person or of their residence, if they are entitled to such inviolability.
3. In case of the insolvency of a person aged under eighteen (18) with respect to a civil or administrative law claim arising out of gainful employment of that person, the immunity from jurisdiction or execution with respect to that claim of the staff member of whose household the person concerned is a member shall be waived for the sole purpose of settlement of that claim, in accordance with the provisions of Article 24 of this Agreement.
4. The employment referred to in paragraph 1 of this Article shall be in accordance with the legislation of the host State, including fiscal and social security legislation.

#### Article 24.

##### *Waiver of immunities*

1. Without prejudice to the Protocol, the privileges and immunities granted in this Agreement are conferred solely in the interest of the Agency, and not for the personal benefit of the individuals themselves.
2. The Head of the Agency shall not refuse to waive the immunity accorded to staff members wherever the Head of the Agency considers that the waiver of such immunity is not contrary to the interests of the Agency.

3. In respect of the Head of the Agency, the Management Board of the Agency shall not refuse to waive his or her immunity wherever the Management Board considers that the waiver of such immunity is not contrary to the interests of the Agency.

#### Article 25.

##### *Communication*

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

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

#### Article 26.

##### *Applicable law*

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

#### Article 27.

##### *Settlement of disputes*

1. All disputes relating to the interpretation or application of the Agreement shall, where possible, be settled amicably by direct negotiations between the Parties.

2. Any dispute relating to the interpretation or application of the Agreement not solved by direct negotiations shall be examined by an ad hoc group consisting of four members, two of whom shall be appointed by each of the two Parties, at the request of the Party initiating the dispute resolution. The appointment of members shall take place no later than 15 calendar days following the request. The ad hoc group shall hear the dispute no later than 15 calendar days after its appointment and deliver its opinion in writing no later than 30 calendar days after the hearing.

3. In the event of failure to settle a dispute in accordance with the procedure set out in the previous paragraphs, each Party may refer the dispute to the Court of Justice of the European Union, having given the other Party two month notice in advance of its intention of referring the matter to the Court.

#### Article 28.

##### *Application*

With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

#### Article 29.

##### *Amendments*

This Agreement may be amended by mutual written consent by the Parties.

#### Article 30.

##### *Entry into force and termination*

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

2. This Agreement shall cease to be in force by mutual consent of the Parties, or if the seat of the Agency is not confirmed in Amsterdam upon the conclusion of the on-going legislative process of amendments to Regulation (EC) No. 726/2004, or is eventually removed from the territory of the host State, or if the Agency is dissolved, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Agency at its headquarters in the host State and the disposition of its property therein, as well as provisions granting immunity from legal process of every kind in respect of words spoken or written

or all acts performed in an official capacity under this Agreement.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE at The Hague, on 1 June 2018, in duplicate, in the English language.

*For the Kingdom of the Netherlands,*

J.L.C. VAN DER WERFF

*For the European Medicines Agency,*

G. RASI

C. WIRTHUMER-HOCHE

#### 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 zijn ingevolge artikel 30, eerste lid, op 1 juni 2018 in werking getreden.

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

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

Uitgegeven de zevende juni 2018.

*De Minister van Buitenlandse Zaken,*

S.A. BLOK