

## **Memorandum of Understanding**

**between the Government of Australia, the Government of the Kingdom of Belgium, the Government of Malaysia, the Government of the Netherlands and the Government of Ukraine**

**regarding political support for prosecuting the perpetrators of the downing of flight MH17 on 17 July 2014**

*Australia, Belgium, Malaysia, the Netherlands and Ukraine,*

*Deploing* the downing of Malaysia Airlines flight MH17 on 17 July 2014 in Donetsk Oblast, Ukraine, which resulted in the tragic loss of 298 lives, including 80 children;

*Noting* that the victims included citizens from 17 countries on five continents;

*Underlining* that the downing of flight MH17 poses a threat to the safety of international civil aviation and that establishing the facts and ensuring justice are therefore a matter for the entire international community;

*Recalling* that UN Security Council resolution 2166 (2014) demands that those responsible for this incident be held to account and that all States cooperate fully with efforts to establish accountability;

*Recalling* that the **competent** authorities of Australia, Belgium, Malaysia, the Netherlands and Ukraine have established a Joint Investigation Team (JIT) to coordinate the criminal investigation, with the aim of bringing the perpetrators to justice;

*Noting* that the Government of Australia, the Government of Belgium, the Government of Malaysia, the Government of the Netherlands and the Government of Ukraine ("the signatories") have jointly recognized, after careful consideration of the available options, that prosecuting the perpetrators of the downing of flight MH17 in the Netherlands would be the most viable prosecution mechanism;

Have come to the following understanding:

### **Paragraph 1**

#### **UNSC Resolution 2166**

The signatories are resolved to ensure that those responsible for the downing of MH17 are held to account and that all States cooperate fully with efforts to establish accountability, as demanded by UN Security Council resolution 2166 (2014).

## **Paragraph 2**

### **National prosecution by the Netherlands**

The signatories have concluded that a prosecution in the Netherlands is an effective process for ensuring accountability in compliance with the highest international standards. A prosecution in the Netherlands will satisfy the UN Security Council's stated aim of holding the perpetrators to account. The JIT-partners have the utmost confidence in the quality, independence and impartiality of the Dutch judicial system. The signatories therefore fully support the national prosecution conducted in and by the Netherlands of those responsible for the downing of flight MH17.

## **Paragraph 3**

### **The position of the next of kin**

The signatories are convinced that a national prosecution conducted in and by the Netherlands will do justice to the interests of the next of kin of the 298 victims. In accordance with the applicable law, the next of kin will, for instance, have the right to express their views in the criminal proceedings and to file claims for costs in those proceedings as injured parties. The proceedings will also be made as accessible as possible to next of kin from all countries.

## **Paragraph 4**

### **Cooperation during prosecution**

The countries represented in the Joint Investigation Team will remain closely involved at both the operational and political level to ensure that justice is done.

## **Paragraph 5**

### **Mutual support and assistance among the signatories**

The signatories respectively confirm their enduring support for a prosecution and trial conducted in and by the Netherlands. The signatories will assist one another if any pressure is exerted directed towards undermining the prosecution or the signatories' cooperation.

## **Paragraph 6**

### **Joint outreach**

The signatories will jointly keep the international community informed and engaged in relation to the prosecution. In particular, they will work jointly to ensure effective cooperation with their efforts to bring the perpetrators of the downing of flight MH17 to justice. The five countries will act jointly in engaging with the UN, including the UNSC, on these matters. They will also coordinate their contacts with third countries that may be able to provide assistance in ensuring the effective prosecution of the perpetrators.

## **Paragraph 7**

### **Financial contributions**

Arrangements for signatories and other *grieving nations* to make financial contributions to the national proceedings in the Netherlands will be laid down in a financial memorandum of understanding.

## **Paragraph 8**

### **Joint communications**

The signatories acknowledge the importance of conducting communications with due care. For this reason, they are willing to coordinate with each other on communications to the next of kin and media concerning any major steps and developments.

## **Paragraph 9**

### **Regular consultations**

The signatories will hold regular political consultations to discuss and review their cooperation as elaborated above.

## **Paragraph 10**

### **Amendments**

This Memorandum may be amended at any time in writing with the consent of the signatories.

## **Paragraph 11**

### **Date of effect and duration**

1. This Memorandum will take effect on the date of signature by the signatories.
2. This Memorandum will remain in effect for five years and will be automatically extended for successive five-year periods. Where one of the signatories notifies the other signatories in writing that it no longer wishes to be a signatory to this Memorandum, the Memorandum will cease to have effect in respect of the notifying signatory. The Memorandum will remain in effect for the remaining signatories.

*Signed in quintuple at New York on the 20<sup>th</sup> of September in the English language.*

*For the Government of Australia,*

*Julie Bishop*

*Minister for Foreign Affairs*

*For the Government of the Kingdom of Belgium,*

*Didier Reynders*

*Deputy Prime Minister and Minister of Foreign Affairs and European Affairs*

*For the Government of Malaysia,*

*Dato' Sri Anifa bin Haji Aman*

*Minister of Foreign Affairs*

*For the Government of the Kingdom of the Netherlands,*

*Bert Koenders*

*Minister of Foreign Affairs*

*For the Government of Ukraine,*

*Pavlo Klimkin*

*Minister of Foreign Affairs of Ukraine*