

Promotion of the ratification and full implementation of the Rome Statute

The Netherlands

In Resolution **ICC-ASP/5/Res.3** of 1 December 2006, the ASP decided, *inter alia*, to adopt and implement a Plan of action for achieving universality and full implementation of the Rome Statute. Pursuant to paragraph 6 (h), States should provide the Secretariat of the Assembly of States Parties with information relevant to the promotion of ratification and full implementation of the Rome Statute. This was reiterated in the Recommendations on the Plan of action of 14 December 2007 (**ICC-ASP/6/Res.2, annex I**).

With reference to ICC-ASP/7/S/PA/21 the Netherlands hereby provides the Secretariat with relevant information.

A. Introduction

The Netherlands is a staunch supporter of the International Criminal Court (Court), and played a prominent role in the development of the Rome Statute. It signed it on 18 July 1998, and ratified it on 17 July 2001, before its entry into force on 1 July 2002.

Besides being a State Party, the Netherlands is the host State for the Court, in which capacity it supports the Court in numerous ways, both financially and practically. The Netherlands bears the costs for the Court's temporary accommodation and the security of the buildings and personnel, as well as paying a substantial portion of the costs for its new housing development. The Netherlands has also concluded various agreements and MoUs with the Court, including the Headquarters Agreement, and numerous additional arrangements for matters such as the use of forensic services, use of the diplomatic bag, legal assistance, and transport within the Netherlands of suspects, witnesses and victims.

B. Fora

Achieving universality and full implementation of the Rome Statute requires the use of a variety of instruments, such as bilateral instruments, statements in multilateral fora (e.g. the United Nations and the European Union), and (support for) the dissemination of the Court's principles and rules. The importance of supporting the Court can also be raised with third countries, e.g. at political meetings or conferences.

It may prove necessary to assist States which have the necessary political will but encounter technical difficulties with accession to or implementation of the Statute. This could involve concrete expert assistance, financial support and/or access to relevant information, for instance.

In line with its policy of prioritising the promotion of human rights in general and the international legal order in particular, the Netherlands maintains a high profile in the United Nations with regard to the Court, characterised by an active and alert attitude, and a result-oriented approach. Dutch policy is aimed at gaining the broadest possible support for the Court, both political and operational. As host State, the Netherlands is traditionally the leading country in drawing up the annual United Nations resolution in support of the Court.

As a European Union member state, reference is made to the European Union's reply to the request for information by the Assembly of States Parties. The Netherlands is an active member of the European Union working group of Court experts (COJUR Subarea Court).

C. Support activities

The Netherlands has supported numerous initiatives to promote the ratification and implementation of the Rome Statute. As universal acceptance is of crucial importance for the Court's legitimacy, the Netherlands believes that a long-term campaign to achieve ratification and implementation of the Statute by as many countries as possible remains necessary. In accordance with Dutch Government policy, the European Union Common Position, the European Union Action plan and the Assembly of States Parties Plan of action, the Netherlands will continue its efforts to achieve the widest possible ratification of the Statute, as well as the broadest possible implementation of its provisions. It also backs projects aimed at supporting the Court and increasing awareness of it in the countries under investigation (Uganda, the Sudan, the Democratic Republic of the Congo and the Central African Republic).

A list of activities financially supported by the Netherlands can be found in **Annex I**, covering the period from 1 October 2007 to 31 August 2008.

Objectives

The objectives of the Netherlands' policy of supporting the Court are fourfold. First, the Court must enjoy universal acceptance if it is to be as effective as possible. Although the Statute has been ratified by a substantial number of countries, many others are either still in the process of ratification/accession or have not even begun it.

Second, for the complementarity and cooperation regime to function properly, the Statute needs to be implemented by the largest possible number of States Parties as soon as possible. Implementation of the Statute's provisions in national legislation (and modification of national criminal law) is critical as well as the political will to put into place effective investigation and prosecution of Court core crimes and international cooperation in this respect. Many countries appear to have difficulties with implementation, often due to limited knowledge of the implementation process. In this context the Netherlands would like to stress the importance of networks like the European Union-network of contact points for genocide, crimes against humanity and war crimes.

The third objective is to promote the effective and independent operation of the Court.

Finally, the policy is aimed at protecting the integrity of the Rome Statute.

Strategy

Although support policy with regard to the Court is multidimensional and its constituent parts cannot be viewed in isolation, three broad components may be distinguished.

Financial support

Financial support is given to non-governmental organisations (NGOs) and other institutions in support of activities organised by these organisations which directly help to achieve the objectives of Dutch support policy. Financial support is accompanied by technical and political support wherever possible.

Technical support

Technical (or judicial) support takes the form of a transfer of knowledge by experts in the field of ratification and implementation of the Statute, either locally (in the relevant country or region), or in the Netherlands, in order to promote these two aims, as well as the effective establishment of the Court. Technical assistance is often accompanied by financial and political support.

In the past, the Netherlands has actively contributed to legislative work for the ratification and implementation of the Statute in third countries. Over the last year, representatives of Dutch Ministries took part in conferences held in the Czech Republic, Egypt and Suriname, for example. The Netherlands has also been supportive by receiving and informing parliamentary delegations in The Hague, such as senators from Chile and parliamentarians from Suriname.

Political support

This involves support for States through political dialogue and takes different forms: bilateral contacts and demarches (the Netherlands tries to ensure that items about the Court appear on the agenda in as many bilateral contacts as possible); European Union activities (such as conferences and coordinated demarches based on considerations established in the European Union working group of Court experts); and interventions in the United Nations and other multilateral fora. The support is intended to help States with the ratification and implementation process and to prevent the Court's effectiveness from being eroded or the Statute's integrity from being undermined.

Criteria

Activities must help to achieve the objectives of Dutch support policy. The main criteria with which the activity or organisation must comply are:

- it must specifically target parties and/or actions directly related to the ratification process;
- it must make a specific and targeted contribution to the implementation of the Court Statute by the States Parties;
- it must contribute in more general terms to the effective functioning of the Court and the universal acceptance of the principles set out in the Statute.

Coordination

Many other States are working towards the effective establishment of the Court and the ratification/implementation of the Statute by third states. The Netherlands maintains contact with European Union and other partners and works closely with them on this issue to prevent duplication and promote synergy.

In practice, many initiatives are developed by NGOs and similar organisations. The Netherlands therefore maintains close contacts with the NGO community as a major partner in achieving its policy objectives. It remains willing to support NGO initiatives. Two of the major NGOs – the Coalition for the International Criminal Court (CICC) and Parliamentarians for Global Action (PGA) – are provided with annual funding for their activities worldwide.

D. Financial contribution to the ICC itself

Besides giving NGOs and other institutions funding for activities in support of the Court, the Netherlands also provides the Court with direct funding. In addition to the annual obligatory contribution, the Netherlands supports the Court through voluntary contributions. Over the past year the Netherlands contributed financially to the Trust Fund for Least Developed

Countries and other Developing Countries, the Legal Tools Project and the Internship and Visiting Professional Programme, all projects which indirectly contribute to universal ratification and implementation.

E. Contact point

The national contact point for matters related to promotion of ratification and full implementation is:

United Nations and International Financial Institutions Department
Political and Legal Affairs Division (DVF/PJ)
Mr F. (Fabio) Rossi

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ANNEX I

Dutch-funded projects in support of the ICC (1 October 2007 – 31 August 2008)

Date	Organisation	Project	Sum Allocated
October 2007	Centre for Justice and Reconciliation	Training Materials Development (2007) – Facilitators Guide: Advancing Justice and Reconciliation	€12,390
October 2007	Parliamentarians for Global Action (PGA)	Parliamentary Campaign for the Court 2007-2010	€300,000
October 2007	Justice Without Frontiers	End Impunity Now (2008)	US\$10,000
November 2007	University of Amsterdam, Amsterdam Centre for International Law	International Expert Meeting 'International Criminal Procedure: Towards a Coherent Body of Law' (2008)	€18,014.54
November 2007	Court	Trust Fund for Least Developed Countries – Sixth Session of the ASP (New York)	€20,000
February 2008	Coalition for the International Criminal Court (CICC)	Campaign 2008 'Supporting and Strengthening the Rome Statute Institutions'	€100,000
February 2008	Court	Trust Fund for the Legal Tools Project 2008-2009	€40,000
March 2008	International Criminal Law Network (ICLN)	Training Workshop (Cairo) 'International Criminal Procedural Law at the Court'	€15,000
April 2008	Court	Internship and Visiting Professional Programme 2008-2009	€40,000
June 2008	EC	Visit by Chilean Senators to The Hague	€5,000
July 2008	PGA	Participation Parliamentarians Afghanistan 30th Annual Forum on the Court	€10,000