



Ministry of Justice

# Speech by the Minister of Justice

**The Eight Session of the Assembly of the States Parties to  
the Rome Statute of the International Criminal Court**

*The Hague, 19th November 2009*

Mr President, Your Excellencies, ladies and gentlemen,

Let me start by thanking the President and the Prosecutor for the clear messages they sent to the Assembly [yesterday]. The Netherlands fully aligns itself with the statement made on behalf of the European Union by the Swedish Presidency. Please allow me to make some additional remarks on behalf of the Netherlands, both as a committed state party to the Rome Statute and as host State of the ICC. In this capacity, we are very pleased to have the Assembly here again at the World Forum Convention Centre in The Hague. We look forward to a productive 8th Session.

Mr President,

It has been a busy and eventful year for the ICC. Legal history was made with the start of the first ever criminal trial to see the active participation of victims. And with the issuance of an arrest warrant against a sitting Head of State, showing that the ICC exercises jurisdiction over persons regardless of political stature. This year the international community also witnessed the first ever appearance before the Court pursuant to a summons.

The activities of the Court often pose a challenge to the Netherlands as the host State of the ICC. In general, we are determined to facilitate the smooth and efficient functioning of the Court, while at the same time safeguarding its public order and national security interests.

We have concluded various agreements with the ICC, including the Headquarters Agreement and numerous additional arrangements. This involves matters such as the use of forensic services, use of the diplomatic bag, and transport of suspects, witnesses and victims. Moreover, we bear the costs for the ICC's temporary accommodation and the security of the buildings and personnel, as well as a substantial portion of the new housing development.

The Netherlands has also again facilitated the presence of Least Developed Countries by means of a contribution to the LDC Trust Fund to provide these delegations with hotel accommodation free of charge.

Mr. President, I merely state this to underline our firm commitment to the Court. We believe that the establishment and effective functioning of the ICC will provide an essential contribution to international peace and justice.

As a State Party, we are not only committed to cooperate with the Court's judicial activities. We are also convinced of the necessity that national States should ratify and implement the Rome Statute and pro-actively practice the principle of complementarity. The Netherlands is dedicated to bring to justice suspects of international crimes residing on Dutch territory. And we give legal assistance to states who are willing and able to prosecute these suspects. In this respect we deem it worthwhile to assess whether the international framework for legal assistance and extradition between States in cases of genocide, crimes against humanity and war crimes could be improved. This in order to fulfil the principle of complementarity to its fullest extent.

Mr President,

For the Netherlands, the ICC truly is an essential player in reconciling peace and justice. The Court has established itself as an independent institution and has come up to speed, as the proceedings before the Court show.

The prosecution of suspected criminals of international crimes has had an impact far beyond The Hague. Potential perpetrators of serious international crimes now see the risk of arrest and prosecution by the ICC as a real and immediate prospect. The system of international criminal justice we have together created in Rome is up and running. Together with national States, the Court will continue to make the world community a place where there are no more safe havens for those responsible for the most serious crimes.

As the Prosecutor once put it: the plane is flying. It has taken off. Every effort should now be aimed at ensuring that the plane keeps flying. The international community should continuously seek to provide the plane with enough fuel to reach all places of the world if needed. At the same time all States should open their runways to welcome its landing.


To speak without metaphors: universality, full cooperation and respect for decisions of the Court remain essential. Our concerns and efforts should be increased to address them.

The first Review Conference next year in Kampala, provides an excellent opportunity to further reflect on these issues. Stocktaking of international criminal justice will be an important issue during this milestone event.

The Review Conference will also give the States, a historic opportunity to activate the Court's jurisdiction over the crime of aggression, more than 60 years after the conclusion of the Nuremberg Trials. The Netherlands firmly believes that the jurisdiction of the Court is not complete without the inclusion of the crime of aggression. It must be possible to reach a compromise that does justice to both the interest of the rule of law that the Statute seeks to protect, and to the interests the Security Council seeks to protect. Those interests often coincide. With the necessary political will and courage, we must succeed. This would be to the benefit of our common longterm interest. So I do hope and expect that our new Erasmus Price laureate Benjamin Ferencz – the embodiment of the fight against aggression - will be able to witness that success. The world community deserves it. Benjamin Ferencz and the other Erasmus Price laureate, Antonio Cassese, deserve it.

At the same time, the conference offers the appropriate momentum to take the necessary preparatory steps in order to combat impunity for acts of terrorism.

Terrorism is one of the biggest and most challenging threats the world is facing in the twenty-first century. Impunity for such crimes calls for a role for the ICC. In 1998, the Rome Conference adopted Resolution E, which specifically regards terrorist acts as one of the most serious crimes of concern to the international community. Regrettably a generally acceptable definition of the crime of terrorism



could not be agreed upon. To date, unfortunately this is still the case. Since the Rome Conference terrorism has increasingly plagued the world.

For these reasons the Netherlands proposes to include crime of terrorism in the list of crimes laid down in the Statute. We also propose to postpone the exercise of jurisdiction over this crime until a definition and conditions for the exercise of jurisdiction have been agreed upon. In addition, the Netherlands proposes that the Review Conference establish an informal working group on the crime of terrorism. This should examine the question to what extent the Statute would need adaptations as a result of the introduction of the crime of terrorism within the jurisdiction of the Court. Our amendment proposal will strengthen the role of the ICC as a permanent court. And this will be an important step forward to the prosecution of crimes that threaten the peace, security and well-being of the world.

Furthermore the Netherlands wish to express its support for the three amendments proposed by Belgium and its sponsors. These amendments could provide for an effective legal framework for combating war crimes in which weapons have been employed which are subject of a comprehensive prohibition.

Ladies and gentlemen,

World peace and international justice may seem beyond our grasp, especially in these turbulent times. But nonetheless, it is up to us to lay a solid foundation, and provide the necessary conditions for a better future.

As the Dutch humanist and philosopher Desiderius Erasmus once said:

“There are some people who live in a dream world, and there are some who face reality; and then there are those who turn one into the other.”

Thank you.