

Promotion of the ratification and full implementation of the Rome Statute

The Netherlands

In the Resolution **ICC-ASP/5/Res.3**, 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, sub-paragraph (h), the Netherlands hereby provides the Secretariat with information relevant to promotion of the ratification and full implementation of the Rome Statute.

A. Introduction

The Netherlands is a staunch supporter of the International Criminal Court (ICC).

The Netherlands has played a prominent role in the realization of the Rome Statute and can be considered one of the *founding fathers* of the ICC. The Netherlands signed the Statute on 18 July 1998, and ratified it on 17 July 2001, before its entry into force on 1 July 2002.

As a member state, the Netherlands operates in active manner within both the ASP and the New York and The Hague Working Groups. At the moment the Netherlands is member of the Bureau of the ASP.

Besides being a member state, the Netherlands is also the host state for the ICC.

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 such as, for example, the UN and the EU, and support for the dissemination of the ICC principles and rules. The importance of supporting the ICC is also raised with third countries in a variety of occasions, such as political meetings or conferences.

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

Following its policy in which priority is ascribed to promotion of human rights and the international legal order, the Netherlands maintains a high profile in the UN as regards the ICC, characterized by an active and alert attitude, with a result-oriented approach. Dutch policy is aimed at gaining the broadest possible support for the ICC, both political and operational. As host state the Netherlands is traditionally the leading country in drawing up the annual UN resolution in support of the ICC. The Netherlands welcomed the adoption of UNSCR 1593 (2005) in which the Security Council for the first time referred a case to the ICC.

As a member state of the EU, referral is made to the EU's reply to the information request by the ASP. In the EU the Netherlands is an active member of the EU working group of ICC experts (COJUR Subarea ICC).

C. European network of contact point for the investigation of genocide, crimes against humanity and war crimes

On 26 June 2002 the European Council adopted a Decision¹ setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes. The purpose of this Decision is to make cooperation between the member states in combating genocide and crimes against humanity more efficient and to designate a contact point for war crimes within the police and justice systems of each member state.²

Each member state has designated a national contact point for the investigation of genocide, crimes against humanity and war crimes. In the Netherlands this is the National Prosecutor's Office. The contact points will provide information on request or *motu proprio*.

So far, the network has met four times. The 4th meeting took place on 7 and 8 May 2007 in The Hague. Representatives of the ICC participate in these meetings.

D. Support activities

In the past, the Netherlands has supported numerous initiatives to promote the ratification and implementation of the Rome Statute. As universal acceptance is of crucial importance to the legitimacy of the ICC, 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 EU Common Position, the EU Action Plan and the ASP Plan of Action, the Netherlands will continue its efforts to achieve the widest possible ratification, as well as the broadest possible implementation of its provisions. Special attention goes out to projects aimed at supporting the ICC and increasing its awareness in the countries under investigation (Uganda, Sudan, DRC and CAR).

In **Annexe I** a general overview of activities from 2002-2006 can be found. **Annexe II** presents a specific overview of the supported activities with the financial contribution of the Netherlands for 2006.

Objectives

The objectives of the Netherlands with regard to ICC support are fourfold:

First, the ICC must have universal acceptance 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 or have not even begun.

Second, the Statute needs to be implemented by the largest possible number of States Parties as soon as possible. The implementation of the Statute's provisions in national legislation (and modification of national criminal law) is critically important. Many countries appear to

¹ Decision 2002/494/JHA of 13.06.2002, OJ L 167 of 26.06.2002.

² See also the EU reply to the information request by the ASP.

have difficulties with implementation, often due to limited knowledge of the implementation process.

The third objective is to promote the effective and independent working of the ICC, as well as the universal acceptance of the Rome Statute. As host country, the Netherlands bears a special responsibility for the effective functioning of the ICC.

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

Strategy

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

Financial support

Financial support is given to states and non-governmental organisations (NGOs) if this contributes to achieving the objectives of Dutch support policy. In practice this consists in principle of support for activities organised by NGOs in this area. Financial support will where possible be accompanied by technical and political support.

Technical support

Technical support takes the form of a transfer of knowledge by experts in the field of ratification and implementation of the Statute, either on the spot (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 ICC. Technical assistance will often be accompanied by financial and political support.

The Netherlands has actively contributed to legislative work for the ratification and implementation of the Statute in third countries. Representatives of the ministries of Foreign Affairs and Justice have assisted, *inter alia*, Jordan (seminar), Andorra (written advice on the framework of the Andorran transposition law for the ICC), Laos, Turkey and Japan (exploratory talks). The Netherlands has also been supportive of regional initiatives in this regard, such as the Follow Up Experts Meeting on the ICC held in Cambodia and the Regional Conference on implementation held in Romania.

Political support

This involves support to states through political dialogue. This occurs in the context of the EU, through bilateral demarches and statements, and through interventions in the UN 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 being undermined. In this connection, the Netherlands Government, the EU Presidency or third countries make demarches based on considerations established in the EU working group of ICC experts.

Criteria

Activities must contribute in policy terms to achieving the objectives of Dutch support policy. The main criteria with which the activity or organisation must comply:

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

Coordination

Many other states work towards the effective establishment of the ICC and the ratification/implementation of the Statute by third states. The Netherlands maintains contact with EU and other partners and works closely with them on this issue to prevent overlapping and to promote synergy.

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

E. Contribution

Besides funding activities in support of the ICC, the Netherlands also provides the ICC itself with direct funding. The Netherlands' annual obligatory contribution in 2006 was € 2,733,342. In addition the Netherlands also supports the ICC through voluntary contributions. In 2006 € 100,000 was transferred to the Trust Fund for Victims (VTF). The Netherlands also contributes to the Fund for Least Developed Countries and other Developing Countries (LDC TF). Although for 2006 the Netherlands could not contribute to the LDC TF due the fact it did not receive the required information in time, the Netherlands did provide for € 20,000 for the resumed session in New York in January 2007.

In its capacity of host state, the Netherlands pays for the temporary housing of the ICC, has made an offer for 7,2 ha. of land for the construction of permanent premises, and has offered a subsidized loan for its construction.

F. Host country

The President of the ICC, Philippe Kirsch, and the Dutch minister of Foreign Affairs, Maxime Verhagen, signed the headquarters agreement on 6 June 2007.

The Netherlands has also made several arrangements, agreements and MoU's with the ICC regarding matters as forensic services, visa, the diplomatic pouch, legal assistance, transport within the Netherlands of suspects, witnesses and victims, to name but a few.

G. Contact point ICC

The national contact point for matters related to promotion of ratification and full implementation is the Taskforce ICC.

Taskforce ICC
Ministry of Foreign Affairs
Bezuidenhoutseweg 67
P.O. Box 20061
2500 EB The Hague
The Netherlands

ANNEXE I

Activities of the Netherlands 2002-2006

Activities undertaken by the Dutch Taskforce ICC of the Ministry of Foreign Affairs:

- Seminar in Suriname for countries of CARICOM (2005);
- Seminar in Japan (2004);
- Visit from Chilean journalists to The Hague (2004);
- Visit from Czech parliamentarians to The Hague (2004);
- Parliamentary round table in Czech Republic (2004);
- Visit from judicial experts from Jordan to The Hague (2004);
- Seminar in Jordan (2003);
- Parliamentary round table in Chile (2003);
- Seminar in Burkina Faso for West African countries (2003);
- Seminar in Trinidad & Tobago (2003).

Outsourced activities:

- Subsidy ICC Campaign of the 'Coalition for the International Criminal Court' (2002, 2003, 2004, 2005 en 2006);
- Subsidy of the ICC Campaign of the 'Parliamentarians for Global Action' (2005-2006);
- 'Intersessional Meeting of the Special Working Group on the Crime of Aggression' by the 'Liechtenstein Institute on Self-Determination' (2004, 2005 en 2006);
- Trainingsprogram in Uganda by the 'Centre for Justice and Reconciliation' (2006);
- Seminar and parliamentary round table in Lebanon by 'Justice Without Frontiers' and the 'Parliamentarians for Global Action' (2006);
- Seminar in the Philippines by the Swedish Embassy in Manila (2006);
- Seminar in Moldavia by the 'International Criminal Law Society' (2006);
- 'ICC Diplomats Course Asia' by TMC Asser (2006);
- 'ICC and Gender Justice' by the 'Center for Women's Development DOMOS Chile' (2006);
- Workshops in Burkina Faso, CAR and Chad by the 'Coalition for the International Criminal Court' (2006);
- ICC Workshop in Vietnam by the 'Vietnam Lawyers' Association' (2006);
- Seminar in Sudan by 'Africa Legal Aid' (2006);
- Seminar in South-Africa by the 'International Center for Transitional Justice' (2006);
- Seminar on Uganda and the DRC by the 'Amsterdam Center for International Law' of the University of Amsterdam (2005-2006);
- 'Judicial Capacity Strengthening Program for ICC-Judges' by the ICC (2005);
- Seminar in China by Roy S. Lee (2005);
- 'ICC Diplomats Course Africa for Least Developed Countries' by TMC Asser (2005);
- Seminar in the DRC by 'Action Contre l'Impunité pour les Droits Humains' (2005);
- 'ICC Training Course in Malaysia for the Asia-Pacific Region' by the 'Human Rights Law Centre' of the Nottingham University (2005);

- Seminar in Mongolia by the 'Mongolian National Coalition for the International Criminal Court' (2004-2005);
- Seminar in Afghanistan by the 'Afghan Professional Alliance for Minority Rights' (2004);
- 'Sana'a Conference on Democracy, Human Rights and the ICC' (2004);
- Symposium 'The ICC and Enlarging the Scope of IHL' by the ICRC (2004);
- 'ICC Training Course in South Africa' by the 'Human Rights Law Centre' of the Nottingham University (2004);
- '3rd Consultative Assembly of Parliamentarians for the ICC and the Rule of Law' in New-Zealand by the 'Parliamentarians for Global Action' (2004);
- Seminar in South-Africa by 'Africa Legal Aid' (2004);
- 'Round Table Discussion on Complementarity' by the University of Amsterdam (2004);
- 'Asian Regional Campaign to Promote the ICC' by the 'Asian Forum for Human Rights and Development' (2003-2004)
- Seminar in Mexico by the 'Centro de Estudios de Política Criminal y Ciencias Penales A.C.' (2003);
- '2nd Annual Conference "Complementarity in the ICC Regime"' by the 'International Criminal Law Network' (2003);
- '2nd Consultative Assembly of Parliamentarians for the ICC and the Rule of Law' by the 'Parliamentarians for Global Action' (2003);
- '28th International Conference of the ICRC' by the ICRC (2003);
- Seminar in Ghana by 'Africa Legal Aid' (2003);
- 'Sierra Leone Implementation Project' by the 'Legal Reform Initiative' (2003);
- 'ICC Activities' by the 'Women's Caucus for Gender Justice' (2002-2003);
- '24th PGA Annual Parliamentary Forum' by the 'Parliamentarians for Global Action' (2002);
- 'Establishment of the International Criminal Law Network' by 'Science Alliance' (2002);
- 'Conference to establish the International Criminal Bar' by the Dutch order of lawyers (2002).
- 'Follow-up ICC Conference for Southeast-Asian and Pacific states' in Cambodia by the 'Centre for Restorative Justice in Asia' (2002);
- Conference in Lebanon by the ICRC (2002).

ANNEXE II

The Netherlands - Projects in support of the ICC (2006)

Date 2006	Organisation	Project	Sum Allocated
<u>Pledged</u>			
January	Coalition for the International Criminal Court	Campaign 2006	€ 80,000
January	Parliamentarians for Global Action	Parliamentary Campaign for the ICC 2006	€ 50,000
February	T.M.C. Asser Institute	ICC Diplomats Course from a State's Perspective	€ 10,413
February	International Center for Transitional Justice	Transitional Justice and the ICC in Global Perspective	US\$ 25,000
March	International Criminal Law Society	Seminar on the Ratification and Implementation of the Rome Statute in Moldova	€ 3,921 + expert sent
March	Vietnam Lawyers Association	Workshop on the International Criminal Court	US\$ 5,661
May	Embassy of Sweden in Manila, the Philippines	Briefing and Roundtable Discussions on the International Criminal Court	Military expert sent
May	Justice Without Frontiers	Seminar and Parliamentary Roundtable on Beirut and the ICC	Two experts sent
June	Liechtenstein Institute on Self-Determination	3rd Intersessional Meeting of the Special Working Group on the Crime of Aggression	US\$ 20,000
June	Vietnam Lawyers Association	Follow-up on the Workshop on the International Criminal Court	US\$ 8,200
June	DOMOS, Center for Women's Development	Gender and the International Criminal Court: Challenges to Democracy	US\$ 12,444
July	Coalition for the International Criminal Court	Promoting the ICC in Burkina Faso, the Central African Republic and Chad	€ 32,450
September	Africa Legal Aid	Engaging the Islamic Community on the International Criminal Court and the African Human Rights System	€ 25,000
September	University of Nottingham, Human Rights	Middle East and North Africa Training Workshop on the ICC	€ 24,000

	Law Centre		
October	International Criminal Court	Third Prosecutors' Colloquium	US\$ 12,000
November	Centre for Justice and Reconciliation	Advancing Justice and Reconciliation in relation to the ICC	€ 15,000
December	Balkan Investigative Reporting Network	Justice Africa: Uganda, media, war crimes and the ICC	€ 15,000
December	Coalition for the International Criminal Court	Campaign 2007	€ 90,400
December	Parliamentarians for Global Action	Parliamentary Campaign for the ICC 2007	€ 100,000
December	International Criminal Court	ICC Internship and Visiting Professionals Programmes 2006-2007	€ 50,000