

The Netherlands as Host State of the International Court of Justice: Legal and Political Dimensions of this “Special Position”

Otto Spijkers

Forthcoming in Alexandra Hofer, Kushtrim Istefi and Vahid Rezadoost (eds), Research Handbook on the Politics of International Dispute Settlement (Edward Elgar 2027)

Abstract

This chapter examines whether, and how, the Netherlands has understood and operationalized its claimed “special position” as the host State of the International Court of Justice (ICJ) in promoting compliance with international law. Prompted by a 2024 recommendation of the Dutch Advisory Council on International Affairs (AIV), the chapter explores whether this special position entails legal and/or political responsibilities. It addresses two questions: first, whether successive Dutch governments have embraced a special responsibility to promote the international legal order by supporting the ICJ and advocating compliance with its rulings; and second, whether this commitment is reflected in the Netherlands’ own litigation strategy before the ICJ, including its participation in contentious and advisory proceedings. By analysing Dutch policy and practice (with a focus on the last three cabinets), the chapter assesses the extent to which the Netherlands consistently seeks to promote respect for the ICJ and universal compliance with international law.

I. Introduction

In a letter of 23 October 2024, the Dutch Advisory Council on International Affairs (Adviesraad Internationale Vraagstukken, AIV) called for a new direction for the Netherlands in the Israeli-Palestinian conflict. The letter was addressed to Caspar Veldkamp, who was at that time the Netherlands Minister of Foreign Affairs. One of the suggestions made by the AIV to the Netherlands Government in this letter was the following:

[The Netherlands Government should] endorse the idea that the Netherlands has a special position in terms of compliance with international law, given its role as the host country of the International Court of Justice and the International Criminal Court, and given the provision enshrined in the Dutch Constitution that the government should promote the international legal order.¹

This chapter analyses how this “special position” in terms of compliance with international law can be and has been understood and operationalized, particularly in the relationship of the Netherlands with the International Court of Justice (“ICJ” or “the Court”). The AIV was somewhat ambiguous about the exact nature of that special position. Is the Netherlands, as a host country of various international courts and tribunals, including the ICJ, held to a higher legal standard when it comes to complying with international law? Or is this more of a political or moral obligation, if it even is an obligation at all. Like all the other chapters in this book, the current chapter thus seeks to engage with the legal-political dimensions of international dispute settlement, by looking at the political as well as legal obligations of host State the Netherlands

¹ Advisory Council on International Affairs (Adviesraad Internationale Vraagstukken), *Towards a New Direction for the Netherlands in the Israeli-Palestinian Conflict* (Advisory Report No 39, 23 October 2024) 25.

in its dealing with the international courts it is hosting. In what follows, the focus will be exclusively on one of these courts, the ICJ.

More specifically, in this chapter, the following two questions are addressed:

1. Has the Netherlands Government endorsed the idea that it has a special position and responsibility, as host State of the ICJ, to advocate for (1) constructive cooperation with and support for the ICJ by all (other) States, and for (2) compliance, both at home and abroad, with obligations under international law as confirmed in rulings of the ICJ?
2. If yes, then is the litigation strategy of the Netherlands at the ICJ, both inside and outside the Court, *actually* motivated by efforts to constructively and consistently promote universal compliance with international law and respect for the rulings of the ICJ? Does the Netherlands show an awareness of its special responsibility when it initiates contentious proceedings at the ICJ, or when it intervenes in proceedings already initiated by other States, or when it participates in advisory proceedings through written and/or oral statements?

It is perhaps helpful to make some preliminary remarks. First, it is important to make clear that this chapter does not address the question whether the Netherlands is, or ought to be, a “good host” of the ICJ, i.e., whether the privileges and immunities of the Court and its staff are respected, the Peace Palace premises and its wonderful garden are kept in pristine conditions, the food served to the judges is of the highest quality, etc. A distinction should be made between the host State’s duty of being a “good host” to the Court, and its host State duty – if there is such a thing – of being an exemplary nation in terms of compliance with international law, and support for the rulings of the Court. One might even go as far as to suggest that the two have nothing to do with each other. It is, of course, perfectly possible to be an excellent host of an international court, whilst at the same time having a terrible international law track record and showing little to no enthusiasm for the productions of that court.

Generally speaking, the Netherlands Government maintains such a strict separation between, on the one hand, the role of the Netherlands as host State of the ICJ – reference is then made to obligations under the headquarters agreement which essentially consists of an exchange of notes between the ICJ and the Netherlands’ Government – and, on the other hand, the role of the Netherlands as a constructive member of the ICJ. One can see this separation reflected in the institutional framework of the Netherlands. Most notably, the Netherlands has an Ambassador of International Organizations who deals with hospitality issues only, i.e. his role is to ensure that the Netherlands is a “good host” to all international organizations.² And then there are permanent representatives of the Netherlands to some of the courts and international organizations – not including the ICJ³ - whose role is to promote the interests of the Netherlands at those courts and organisations.⁴

At the same time, in various policy documents, the distinction between being a “good host” of an international court, and being an exemplary State when it comes to compliance and promoting of compliance by others with rulings of that court is sometimes a bit blurred. See,

² Netherlands Ambassador for International Organisations (<https://www.netherlandsandyou.nl/web/nl-host-nation/about-us/ambassador-for-international-organisations-amio>). All websites referred to in this chapter were last accessed on 28 June 2026.

³ Only the International Criminal Court and the Organisation for the Prohibition of Chemical Weapons are listed on the official websites. See Government of the Netherlands, 'Permanent Representations' (<https://www.government.nl/topics/embassies-consulates-and-other-representations/permanent-representations>); Netherlands and You, 'Permanent Representations' (<https://www.netherlandsandyou.nl/permanent-representations>). The Netherlands maintains permanent missions to the United Nations in Geneva, Vienna and Nairobi, but not in The Hague.

⁴ Netherlands and You, 'International Criminal Court' (<https://www.netherlandsandyou.nl/web/icc-the-hague>).

for example, the following statement on the website of the Netherlands Ambassador of International Organizations:

The Netherlands attaches great importance to creating a favourable climate for international organisations. The presence of international organisations in the fields of peace and justice helps promote the international legal order, as laid down in article 90 of the Dutch constitution. This presence also strengthens the Netherlands' positive international reputation, with The Hague as the iconic city of peace, justice and security.⁵

In other words, the duties of being a good host to the various courts, and serving as role model in terms of supporting these courts and complying with their rulings, may be formally distinct, but in practice they often get mingled up.⁶

Second, there are many references in this chapter to the “Netherlands Government”. Of course, the composition of this government constantly changes, especially in recent years, with considerable impact on how the government views international law. It is important to keep this in mind. Most important for present purposes are the last three cabinets.⁷ The fourth Rutte cabinet, led by prime-minister Mark Rutte (VVD, currently NATO Secretary-General), was in office from 10 January 2022 to 2 July 2024. It was a coalition of the *Volkspartij voor Vrijheid en Democratie* (People's Party for Freedom and Democracy, VVD), the *Christen-Democratisch Appèl* (CDA), *Democraten 66* (D66), and the *ChristenUnie* (CU). The cabinet resigned on 7 July 2023 and continued in a demissionary (caretaker) capacity until it was succeeded by a new government on 2 July 2024. The Schoof cabinet, led by Dick Schoof, served from 2 July 2024 to 23 February 2026. It consisted of the *Partij voor de Vrijheid* (Party for Freedom; PVV), the VVD, *Nieuw Sociaal Contract* (NSC), and the *BoerBurgerBeweging* (Farmer–Citizen Movement; BBB). The cabinet resigned on 3 June 2025 and remained in a demissionary (caretaker) capacity until it was succeeded on 23 February 2026. The Jetten cabinet, led by Rob Jetten (D66), has been in office since 23 February 2026.⁸ It is a coalition of D66, the VVD, and the CDA.

II. Special responsibility to advocate for support for the ICJ, and for compliance with obligations under international law as confirmed in rulings of the ICJ

The Netherlands Government has actually endorsed its special position and responsibility. It was especially in the late 2000s that The Hague saw itself as the “legal capital of the world”, but it still does so today.⁹ Lots of books were written on it, and conferences organized, to promote this idea.

Maxime Verhagen was Netherlands Minister of Foreign Affairs from 22 February 2007 to 14 October 2010. He wrote the following, in that official capacity, in a book on The Hague as legal capital of the world, published in 2008:

⁵ Ambassador for International Organisations, 'Ambassador for International Organisations' (<https://www.netherlandsandyou.nl/web/nl-host-nation/about-us/ambassador-for-international-organisations-amio>).

⁶ For a more recent example, see Netherlands Ministry of Finances, 'Memorie van toelichting 2025: V Buitenlandse Zaken—Artikel 1 “Versterkte internationale rechtsorde”', <https://www.rijksfinancien.nl/memorie-van-toelichting/2025/OWB/V/onderdeel/3184327>.

⁷ Rijksoverheid, 'Kabinetten sinds 1945', <https://www.rijksoverheid.nl/regering/over-de-regering/kabinetten-sinds-1945>.

⁸ The time of writing this is 28 June 2026. I do not know what will happen after that date.

⁹ Municipality of The Hague, 'City of Peace and Justice', <https://www.denhaag.nl/nl/stad-van-vrede-en-recht/>.

I admit that the position of The Hague as the city of justice and peace makes exceptional demands on the Netherlands as a member of the international community. It means, for example, that the government consistently raises the issue of cooperation with the legal institutions in The Hague in its dealings with other countries. Very recently, during a visit to Sudan, I called on President Bashir to work together with the ICC.¹⁰

This goes beyond the duty of being a good host. It means the Netherlands believes it has a responsibility to call upon all other States in the world to cooperate with the courts it is hosting. In fact, Verhagen even implicitly asked Bashir to surrender himself to the ICC in The Hague, a suggestion he did not follow-up on.¹¹

Jan Peter Balkenende, Prime Minister of the Netherlands from 22 July 2002 to 14 October 2010, confirmed this particular responsibility in the same book. He said, in more carefully phrased terms:

Thanks to The Hague, the Netherlands holds a unique position in the dynamic world of international law. The government supports The Hague in its ambitions to extend this position.¹²

In the same text, the Prime Minister referred to Article 90 of the Constitution of the Kingdom of the Netherlands, which states the following:

The Government shall promote the development of the international legal order.¹³

This constitutional obligation is often mentioned in the discussion on the special position and responsibility of the Netherlands as host State of the ICJ.¹⁴ The AIV, in its letter referred to above, did so as well, as follows:

The Netherlands has, over the course of its history, built a reputation when it comes to issues of international law. As the host country of the ICJ and the ICC, the Netherlands is also expected to play an active role in promoting and complying with international law. *This role is also enshrined in our Constitution*, the underlying rationale being that this is also a matter of direct concern to the Netherlands.¹⁵

¹⁰ The quote is from Maxime Verhagen, 'The Hague's Contribution to Peace and Justice' in David Vriesendorp, Frans A Nelissen and Michail Wladimiroff (eds), *The Hague: Legal Capital of the World? Liber in Honorem W J Deetman* (Hague Academic Press 2008).

¹¹ International Criminal Court, 'Situation in Darfur, Sudan: Omar Hassan Ahmad Al Bashir', <https://www.icc-cpi.int/darfur/albashir>.

¹² The quote is from Balkenende, 'Mayor for Justice, Peace and Security', in David Vriesendorp, Frans A Nelissen and Michail Wladimiroff (eds), *The Hague: Legal Capital of the World? Liber in Honorem W J Deetman* (Hague Academic Press 2008).

¹³ Government of the Netherlands, *The Constitution of the Kingdom of the Netherlands* (translation of 2019), https://www.government.nl/binaries/government/documenten/reports/2019/02/28/the-constitution-of-the-kingdom-of-the-netherlands/WEB_119406_Grondwet_Koninkrijk_ENG.pdf.

¹⁴ According to the website of the Netherlands Government, "one of the ways the Netherlands does this is to be a good host country for international organisations". See Government of the Netherlands, 'The Netherlands as Host Country for International Organisations', <https://www.government.nl/topics/international-organisations/netherlands-as-host-country>.

¹⁵ Emphasis added. Advisory Council on International Affairs (Adviesraad Internationale Vraagstukken), *Towards a New Direction for the Netherlands in the Israeli-Palestinian Conflict* (Advisory Report No 39, 23 October 2024)

14. The same point is reiterated in the quotation with which this chapter opens.

The Netherlands indeed has a history of building a reputation when it comes to issues of international law. In the first decades of this century, various national policy documents endorse the special position and responsibility of the Netherlands as host of the ICJ. This is one of many examples:

A strong international legal order requires well-functioning international institutions with broad support. The Dutch tradition of international law expertise is reflected in the position of The Hague as the legal capital of the world. The Dutch government is committed to strengthening the international legal order and broader recognition of the jurisdiction of international courts and tribunals, including the International Court of Justice [...]. The Netherlands wants to further strengthen the position of The Hague as the capital of international law.¹⁶

In conclusion, it is clear that the Netherlands Government has embraced this special position and responsibility.

III. How the “Special Position” manifests itself in behaviour of Netherlands at the ICJ

Is the litigation strategy of the Netherlands at the ICJ consistently motivated by efforts to constructively promote universal compliance with international law and respect for the rulings of the ICJ? Does the Netherlands show an awareness of its special responsibility when it initiates contentious proceedings at the ICJ, or when it intervenes in proceedings already initiated by other States, and/or when it participates in advisory proceedings through written and/or oral statements?

When looking at the past, present and future behaviour of the Netherlands at the ICJ, of particular interest are the cases where the Netherlands acts, not to defend its own particular interests and rights, but to defend the interests of the international community as a whole. This is often referred to as ‘strategic litigation’, which can be understood as legal action that seeks to use the authority of international law and the ICJ to advocate for social change in the interest of the international community as a whole, but also in the interest of individuals and groups whose voices are otherwise not heard.¹⁷ Is the ICJ becoming a site for strategic litigation – and does the Netherlands play a leading role?

It is important to note that it is quite rare for States to initiate cases in the interest of the international community as a whole, or in the interests of a particular group which is unable to reach the Court itself. ICJ contentious cases initiated for this reason are:

- *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa) (Second Phase)*, Judgment of 18 July 1966;
- *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment of 20 July 2012;
- *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom)*, Judgment on Jurisdiction and Admissibility of 5 October 2016;

¹⁶ Ministry of Finance, *Memorie van Toelichting* (2013), <https://www.rijksfinancien.nl/memorie-van-toelichting/2013/OWB/V/onderdeel/d16e681>.

¹⁷ Think of Mauritius’s strategic litigation, which helped to lead to ICJ, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (Advisory Opinion) [2019] ICJ Rep 95.

- *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, still pending;
- *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v. Syrian Arab Republic)*, still pending.
- *Alleged Breaches of Certain International Obligations in respect of the Occupied Palestinian Territory (Nicaragua v. Germany)*, still pending.
- *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, still pending.

In this chapter, the term “common interest” is used solely to refer to States with a common interest in compliance with a multilateral convention to which they are all parties. Cases initiated on this basis will be discussed below, to the extent that the Netherlands has any involvement in them. For completeness’ sake, all cases at the ICJ in which the Netherlands has had some involvement will be mentioned, not limited to the cases listed above.

1. Contentious proceedings before the Court which involve particular interests of the Netherlands

For a considerable period, the Netherlands engaged only in contentious cases in which it had a specific interest. It did so very rarely. In fact, only three times in the history of the ICJ did the Netherlands bring contentious proceedings to the Court.

On 10 July 1957, the Netherlands initiated contentious proceedings against Sweden, about the application of the Convention of 1902 Governing the Guardianship of Infants. The Swedish authorities had placed a Dutch child living in Sweden under the regime of protective upbringing instituted by Swedish law. In its Judgment of 28 November 1958, the Court did not find any failure of Sweden to observe the Convention.¹⁸ This was an example of diplomatic protection. In international law, diplomatic protection is a means for a state to take legal action against another state on behalf of its national whose rights and interests have been injured by that state. Initiating proceedings before the ICJ is one way of doing so.

Second, by Special Agreement of 27 November 1957, Belgium and the Netherlands jointly brought a dispute on sovereignty over certain frontier land before the Court, resulting in a judgment on 20 June 1959.¹⁹

Third and finally, the Federal Republic of Germany and the Netherlands jointly brought proceedings relating to the North Sea Continental Shelf to the Court by Special Agreement of 20 February 1967. In its Judgment, delivered on 20 February 1969, the Court found that the boundary lines in question were to be drawn by agreement between the Parties and in accordance with equitable principles. And this is what happened.²⁰

For completeness’ sake, the one case in which the Netherlands was respondent can be mentioned. In principle any State can start proceedings against the Netherlands. This is because the Netherlands has declared that it recognizes as compulsory the jurisdiction of the ICJ “over all disputes arising out of situations or facts that took place no earlier than one hundred years

¹⁸ ICJ, *Application of the Convention of 1902 governing the guardianship of infants (Netherlands v Sweden)* [1958] ICJ Rep (Judgment of 28 November 1958).

¹⁹ ICJ, *Sovereignty over Certain Frontier Land (Belgium v Netherlands)* [1959] ICJ Rep 209 (Judgment of 20 June 1959).

²⁰ ICJ, *North Sea Continental Shelf cases (Federal Republic of Germany v Netherlands)* [1969] ICJ Rep 3 (Judgment of 20 February 1969).

before the dispute is brought before the said Court”.²¹ Interestingly, despite this generous offer, proceedings have been initiated against the Netherlands only once in the Court’s entire history. On 29 April 1999, the agent of the Federal Republic of Yugoslavia initiated proceedings against the Netherlands in a case about the legality of the use of force. The case was basically about the lawfulness of a NATO military campaign in the 1990s. Besides the Netherlands, proceedings were also initiated against other NATO members - Belgium, Canada, France, Germany, Italy, Portugal, Spain, United Kingdom, and the United States of America. It resulted in a Judgment on Preliminary Objections (jurisdiction) of 15 December 2004.²² The Netherlands was chosen as object of litigation because it was a NATO Member State.

2. Netherlands initiates contentious proceedings in the common interest

It is only recently that the Netherlands for the first time initiated a case in the common interest. And here, things get interesting for present purposes. This is the case initiated on 8 June 2023, together with Canada, against the Syrian Arab Republic, about the Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In their Application, Canada and the Netherlands contended that Syria has committed various acts of torture, “beginning at least in 2011, with its violent repression of civilian demonstrations, and continuing as the situation in Syria devolved into a protracted armed conflict”. The case is still pending. But in an order on provisional measures, the Court already said the following about the standing of the Netherlands:

The Applicants [Canada and the Netherlands] argue that they seek compliance by Syria with its obligations under the Convention against Torture, which they characterize as possessing an *erga omnes partes* nature, and are thus owed to the Applicants, and indeed to all States parties to the [Torture] Convention. [...] The Court recalls that, in a previous case where Article 30, paragraph 1, of the Convention against Torture was also invoked as the basis of jurisdiction, it observed that “[t]he States parties to the Convention have a common interest to ensure, in view of their shared values, that acts of torture are prevented and that, if they occur, their authors do not enjoy impunity”. According to the reasoning expounded by the Court, such a common interest “implies that the obligations in question are owed by any State party to all the other States parties to the Convention. All the States parties ‘have a legal interest’ in the protection of the rights involved [...]. These obligations may be defined as ‘obligations *erga omnes partes*’ in the sense that each State party has an interest in compliance with them in any given case.” [The latter is a quotation of the Court’s judgment in the case relating to the Obligation to Prosecute or Extradite between Belgium and Senegal.] It follows that any State party to the Convention against Torture may invoke the responsibility of another State party with a view to having the Court determine whether the State failed to comply with its obligations *erga omnes partes*, and to bring that failure

²¹ *Declaration of the Kingdom of the Netherlands Recognising the Jurisdiction of the International Court of Justice under Article 36(2) of the Statute of the Court* (1 March 2017), which replaced the previous declaration of the Kingdom of the Netherlands of 1 August 1956, which was a bit more carefully phrased: “the Government of the Kingdom of The Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement”. But the difference is not notable for present purposes.

²² ICJ, *Legality of Use of Force (Serbia and Montenegro v Netherlands)* [2004] ICJ Rep (Preliminary Objections, Judgment of 15 December 2004).

to an end. The Court thus concludes that the Applicants have, *prima facie*, standing to submit to it the dispute with Syria concerning alleged violations of obligations under the Convention against Torture.²³

The Netherlands has no particular interest whatsoever in this case. It thus acts in the common interest, i.e. as a State party to the Torture Convention. But there are many other States parties to that convention. In fact, the Convention has 175 States parties. They could all have initiated these proceedings, but they did not.

One might wonder whether the fall of the government of Bashar al-Assad on 8 December 2024 has ended the dispute. After all, the new regime is unlikely to deny that torture was committed under the previous regime of Bashar al-Assad. But the case has not been removed from the docket. In December 2024, the applicant States – Canada and the Netherlands – requested more time to submit their Memorial, explaining that unexpected developments in Syria, including a change of government and the appearance of new evidence, made such an extension necessary. This request was formally communicated to Syria by the Registry of the Court, in accordance with the Court’s procedural rules. Syria responded that, given the political transition, it was not in a position to comment on the request within the prescribed deadline and sought additional time to consult the new authorities. After considering the positions of both sides, the Court granted the extension, setting 3 June 2025 as the new deadline for the Memorial of Canada and the Netherlands, and 5 October 2026 for Syria’s Counter-Memorial, while leaving further procedural steps to be decided later.²⁴

On 20 December 2024, Canada and the Netherlands issued a Joint Statement, in which they stated the following on this matter:

Canada and the Netherlands have taken note of the recent developments taking place in Syria, specifically the fall of the Assad-regime on 8 December 2024. According to Canada and the Kingdom of the Netherlands, it is necessary to ensure that their submissions to the International Court of Justice appropriately reflect these developments, which requires an evaluation of the new facts that are emerging. This is why Canada and the Netherlands have asked the International Court of Justice for an extension of the time-limit for the filing of their Memorial, which was granted on 18 December, until June 3, 2025. Canada and the Netherlands are of the firm belief that there can be no sustainable peace and lasting reconciliation in Syria without accountability for human rights violations, as well as truth, justice, and accountability, including reparation, for the victims and survivors. Their stories must be told, and justice must be done. We remain fully committed to working towards this goal.²⁵

In the other torture case listed above, the State initiating the proceedings (Belgium) actually did have a particular interest. Between 1993 and 2003, Belgium had universal jurisdiction legislation (the Belgian War Crimes Law) allowing the most serious violations of human rights

²³ ICJ, *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v Syrian Arab Republic) (Request for the Indication of Provisional Measures) Order of 16 November 2023* (pending) paras 48–51.

²⁴ ICJ, *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v Syrian Arab Republic)* (Order of 17 December 2024) ICJ Rep 2024, <https://www.icj-cij.org/sites/default/files/case-related/188/188-20241217-ord-01-00-en.pdf>.

²⁵ Government of the Netherlands, 'Joint Statement by Canada and the Kingdom of the Netherlands on Decision of the International Court of Justice Extending the Time Limit for Submission of the Memorial' (20 December 2024), <https://www.government.nl/documents/diplomatic-statements/2024/12/20/joint-statement-by-canada-and-the-kingdom-of-the-netherlands-on-decision-international-court-of-justice-extension-time-limit-submission-memorial>. And thus, they continue with the case.

to be tried in its national courts, without any direct connection to the country of the alleged perpetrator, the victims or where the crimes took place. Investigations against Hissène Habré, the former President of Chad, went ahead and in September 2005 he was indicted for crimes against humanity, torture, war crimes, and other human rights violations. Senegal, where Habré had been in exile for 17 years, had Habré under house arrest in Dakar. Senegal did not indict him, and thus Belgium initiated proceedings at the ICJ to force Senegal to either extradite Habré to Belgium or to proceed with the trial in Senegal.

Additionally, it has been announced that the Netherlands is preparing to take action against Afghanistan for breaches of the Convention on the Elimination of All Forms of Discrimination against Women.²⁶ Again, the Netherlands does not seem to have any particular interest in this case. It is acting in the common interest, i.e. an interest in compliance with the convention that is common to all parties to that convention, and in the interest of a particular group with no access to the Court, i.e. the Afghan women and girls.

To conclude, the Netherlands has initiated proceedings in the common interest once, against Syria, and has announced plans to do so again, this time against Afghanistan. One may wonder – or speculate – why only these two States have been selected. There are plenty of other horrible things going on in the world. Think of what is happening in Gaza, more on this below. In the Joint Application instituting proceedings at the ICJ, submitted by Canada and the Netherlands on 8 June 2023, the evidence relied on by the Netherlands and Canada is almost exclusively of UN origin, especially reports and resolution from the UN Human Rights Council.²⁷ There is no shortage of reports and resolutions of that Council expressing concern about breaches of international law committed by Israel and Hamas in the Occupied Palestinian Territories, but this apparently has not motivated the Netherlands to look into ways to hold Israel accountable.²⁸

Indeed, from time-to-time members of parliament call on the government to initiate other proceedings in the common interest. For example, on 25 February 2021, Member of Parliament Tunahan Kuzu (DENK) called upon the government to “initiate a case at the International Court of Justice against China for the genocide committed by China against Uighurs”.²⁹ Of course, what does not help is that China has made a reservation proclaiming that it does not consider itself bound by article IX of the Genocide Convention, which provides the ICJ with jurisdiction over disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the Genocide Convention, at the request of any of the parties to the dispute. In short, if the Netherlands were to initiate such a case against China, the Court would have to conclude it does not have jurisdiction.

Similarly, on April 10, 2026, Members of Parliament Esther Ouwehand and Christine Teunissen (Partij voor de Dieren, “Party for the Animals”) submitted several written questions to the Netherlands government regarding the absolute necessity of taking serious measures against Israel now that even a racist death penalty law for Palestinians has been adopted by the Knesset. One of these questions was:

²⁶ ‘Nederland wil Afghanistan vervolgen voor schending vrouwenrechten Taliban’ (NOS, 25 September 2024), <https://nos.nl/artikel/2538520-nederland-wil-afghanistan-vervolgen-voor-schending-vrouwenrechten-taliban>. At the time of writing (28 June 2026), the case was not yet added to the docket of the Court.

²⁷ ICJ, *Application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Canada and the Netherlands v Syrian Arab Republic)* (Joint Application Instituting Proceedings, 8 June 2023), <https://www.icj-cij.org/node/202793>, appendices.

²⁸ See e.g., Office of the United Nations High Commissioner for Human Rights (OHCHR), ‘The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel’, <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index>.

²⁹ Tweede Kamer, *Gewijzigde motie van het lid Kuzu ter vervanging van die gedrukt onder nr 2286*, Kamerstukken II 2020/21, 21 501-02, nr 2290.

What means of pressure will you [i.e. the Dutch government] employ against Israel to allow independent observers into Israeli prisons, so that independent evidence can be collected and the Netherlands can bring Israel before the International Court of Justice for violation of the UN Convention against Torture – as the Netherlands also did against Syria in 2023?³⁰

The government's reply to the last part of the question was:

The Netherlands cannot bring Israel before the International Court of Justice for violation of the Anti-Torture Convention. This is because there is no provision between the Netherlands and Israel that grants the International Court of Justice jurisdiction in such a case.³¹

That is correct, because Israel has made a reservation regarding Article 30 of the Torture Convention, which grants mandatory jurisdiction to the ICJ. Syria has not made such a reservation. A case initiated by the Netherlands against Israel would thus be impossible, as the Court lacks jurisdiction. One can speculate on whether this suited the government or if they regretted it. But legally speaking, there is little to object to the government's reply. If there is no legal basis for jurisdiction, you cannot initiate proceedings.

3. Netherlands intervenes in contentious proceedings in the common interest

Interventions have also been quite rare in the Court's history.³² In the past, States generally intervened only when they had a particular interest in the case, and the Netherlands was never in that position.³³ This has changed recently, with lots of states intervening in the common

³⁰ Esther Ouwehand and Christine Teunissen, 'De absolute noodzaak om serieuze maatregelen te treffen tegen Israël nu er zelfs een racistische doodstrafwet voor Palestijnen is aangenomen door de Knesset' (Written Questions, Tweede Kamer, 10 April 2026) 2026Z07627.

³¹ Minister van Buitenlandse Zaken, 'Antwoord op vragen van de leden Ouwehand en Teunissen over de absolute noodzaak om serieuze maatregelen te treffen tegen Israël nu er zelfs een racistische doodstrafwet voor Palestijnen is aangenomen door de Knesset' (Answer to Written Questions, Tweede Kamer, 22 April 2026) Aanhangsel Handelingen II 2025/26, nr 1701.

³² For an overview, see International Court of Justice, 'Cases in which States Have Requested Permission to Intervene', <https://www.icj-cij.org/cases-by-phase/intervention?language=en>.

³³ This happened in the following cases: ICJ, *Haya de la Torre (Colombia v Peru) (Intervention by Cuba)* [1951] ICJ Rep 71 (Judgment of 13 June 1951); *Nuclear Tests (Australia v France) (Application for Permission to Intervene by Fiji)* [1973] ICJ Rep 320 (Order of 12 July 1973); *Nuclear Tests (New Zealand v France) (Application for Permission to Intervene by Fiji)* [1973] ICJ Rep 320 (Order of 12 July 1973); *Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Application for Permission to Intervene by Italy)* [1981] ICJ Rep 3 (Judgment of 14 April 1981); *Continental Shelf (Libyan Arab Jamahiriya/Malta) (Application for Permission to Intervene by Italy)* [1984] ICJ Rep 3 (Judgment of 21 March 1984); *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) (Application by El Salvador to Intervene)* [1984] ICJ Rep 215 (Judgment of 4 October 1984); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* [1990] ICJ Rep 92 (Application to Intervene of Nicaragua, Judgment of 13 September 1990); *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v Nigeria: Equatorial Guinea intervening)* [1999] ICJ Rep 1029 (Application to Intervene of Equatorial Guinea, Judgment of 10 June 1999); *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v France)* [1995] ICJ Rep 288 (Order of 22 September 1995); *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia) (Application by the Philippines to Intervene)* [2001] ICJ Rep 575 (Judgment of 23 October 2001); *Territorial and Maritime Dispute (Nicaragua v Colombia) (Application by Costa Rica to Intervene)* [2011] ICJ Rep 348 (Judgment of 4 May 2011); *Jurisdictional Immunities of the State (Germany v Italy: Greece intervening) (Application by Greece to Intervene)* [2011] ICJ Rep 494 (Judgment of 4 May 2011); *Whaling in the Antarctic (Australia v Japan: New Zealand intervening)* [2013] ICJ Rep 257 (Application by New Zealand to Intervene, Judgment of 6 February 2013).

interest in three currently pending cases, all three relating to the Genocide Convention.³⁴ The Netherlands has intervened in all three of these mass-intervention cases, each time under Article 63 ICJ Statute. When speaking of interventions, it is useful to distinguish between interventions under Article 62 and Article 63. While the former concerns the existence of an intervening State's interest of a legal nature which may be affected by the decision in the case, the latter relates solely to the interpretation of the relevant convention. Article 63 reads as follows:

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.
2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.³⁵

The three cases in which lots of States intervened, most of them on the basis of Article 63 ICJ Statute, i.e. to defend a common interest in compliance with the Genocide Convention, are discussed below.

First, in the case initiated by Gambia against Myanmar about the application of the Genocide Convention, the Netherlands intervened. Canada, Denmark, France, Germany, the United Kingdom, Maldives, Slovenia, the Democratic Republic of Congo, Belgium and Ireland also requested to intervene at different times in the proceedings. This case is essentially about the genocide being allegedly committed against the Rohingya minority in Rakhine State, part of Myanmar. Gambia itself was also acting in the common interest, being a party to the Genocide Convention.³⁶

Secondly, the Netherlands requested to intervene in the case initiated by Ukraine against the Russian Federation about allegations of genocide under the Genocide Convention. Besides the Netherlands, also Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Luxembourg, Malta, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Italy, Latvia, Liechtenstein, Lithuania requested to intervene.³⁷ Ukraine clearly is a State with particular interests in these proceedings, which is why this case is not listed as a common interest case above. But the interventions are done in the common interest as parties to the Genocide Convention, and/or, politically speaking, in support of Ukraine.

The third and final mass-intervention case is the one initiated by South-Africa against Israel.³⁸ In its Order on provisional measures of 26 January 2024, the Court indicated the following provisional measures:

- The State of Israel shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention [...]

³⁴ It is noteworthy that, thus far, no State requested to intervene in the case relating to alleged breaches of certain international obligations in respect of the Occupied Palestinian Territory between Nicaragua and Germany. Here, Nicaragua is acting in the common interest.

³⁵ Statute of the International Court of Justice 1945, art 63(1)–(2).

³⁶ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar)* (ICJ Case No 178), <https://www.icj-cij.org/case/178>.

³⁷ ICJ, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v Russian Federation)* (ICJ Case No 182), <https://www.icj-cij.org/case/182>.

³⁸ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* (ICJ Case No 192), <https://www.icj-cij.org/case/192>.

- The State of Israel shall ensure with immediate effect that its military does not commit any acts described in point 1 above;
- The State of Israel shall take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip;
- The State of Israel shall take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip;
- The State of Israel shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II and Article III of the Convention on the Prevention and Punishment of the Crime of Genocide against members of the Palestinian group in the Gaza Strip;
- The State of Israel shall submit a report to the Court on all measures taken to give effect to this Order within one month as from the date of this Order.³⁹

As the situation on the ground deteriorated dramatically, South-Africa requested additional provisional measures. Its first request for additional provisional measures of 12 February 2024 was denied, because what was requested was already covered by the first order cited above.⁴⁰

But the next request, of 6 March 2024, was granted. The additional measures related to the famine and deliberate starvation. On 28 March 2024, the ICJ ordered these additional measures. The Court unanimously, i.e. including the vote of the Israeli *ad hoc* judge, obliged Israel to

Take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary.⁴¹

On 10 May 2024, South-Africa again asked for additional measures, which were ordered on 24 May 2024. Israel had started a military offensive in Rafah, and the request was especially in response to that. This time, Israel was ordered, *inter alia*, to

Immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part.⁴²

³⁹ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, Order of 26 January 2024.

⁴⁰ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, Decision of the Court on South Africa's request for additional provisional measures' (Press Release No 2024/16, 16 February 2024), <https://icj-cij.org/sites/default/files/case-related/192/192-20240216-pre-01-00-en.pdf>.

⁴¹ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v Israel)* (Order of 28 March 2024, Request for modification of provisional measures), <https://icj-cij.org/sites/default/files/case-related/192/192-20240328-ord-01-00-en.pdf>.

⁴² ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v Israel)* (Order of 24 May 2024, Request for modification of provisional measures), <https://icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>.

The Netherlands was very reluctant to support the Court in words and deeds. A good illustration of this is a newspaper article published in the *Volkskrant* on 26 January 2024, on the day the ICJ issued its first order on provisional measures.⁴³

At the time the newspaper article was published, it was not yet known what the Court would say. In the newspaper article, the Canadian Prime Minister Justin Trudeau is quoted as stating that the Canadian Government will abide by any order of the ICJ, no matter what its content may be, simply because it is the ICJ. The Belgian Government had said something similar. However, the Netherlands Government, when asked, did not want to commit itself. In a motion on this subject, Member of Parliament Kati Piri (Groen Links-PvdA) called upon the Netherlands Government, “when the International Court of Justice issues provisional measures in the case between South Africa and Israel, to respect this binding legal ruling and to actively promote compliance by directly involved parties”.⁴⁴ This motion was voted against by all political parties then in government – PVV, VVD, NSC, BBB – as well as CDA and some smaller political parties in opposition. It got surprisingly little support.⁴⁵

When asked for clarification, then Minister of Foreign Affairs Hanke Bruins-Slot (CDA) said that she wanted to study the Court’s ruling first. She did not want to commit herself in advance to the judges’ ruling.⁴⁶ And the fact that the Netherlands is the host state of a court that sits in ‘the capital of international law’ was ‘not relevant’ in this case, according to a spokesperson for her Ministry.⁴⁷

As mentioned above, a new Government was installed on 2 July 2024, with Caspar Veldkamp (NSC) as the new Minister for Foreign Affairs, succeeding Hanke Bruins-Slot (CDA). Veldkamp was Minister from 2 July 2024 until 22 August 2025. None of the dramatic developments referred to above motivated the newly installed Netherlands Government to publicly criticize Israel at the time. Instead, the strategy was to engage in behind-the-scenes diplomacy, which led to absolutely nothing.⁴⁸

Undoubtedly, this is what motivated the AIV to urge the Netherlands Government, in the letter quoted earlier, to honour its history and reputation as champion of international law and the Court, and once more to advocate both at home and abroad for compliance with obligations under international law that arise from all rulings of the ICJ, and to recognise that complying with and protecting international law is of geopolitical importance, and thus to endorse the idea, once again, that the Netherlands has a special position in terms of compliance with international law, given *inter alia* its role as the host country of the ICJ.⁴⁹

The AIV’s advice was picked up in the media and elsewhere. Indeed, since the AIV letter was published, the Government is constantly urged to return to its special position. For example, in an editorial comment in *Trouw* of 29 October 2024, the Netherlands is urged to take its role as defender of international law seriously, because “the Netherlands, as host country of the International Court of Justice and the International Criminal Court, can no longer play the role of a spectator and must act.”⁵⁰

⁴³ ‘Hof doet uitspraak: moet Israël stoppen met de oorlog in Gaza?’ *de Volkskrant* (26 January 2024).

⁴⁴ Tweede Kamer, *Motie van het lid Piri c.s. over wanneer het Internationaal Gerechtshof voorlopige voorzieningen treft in de rechtszaak Zuid-Afrika versus Israël deze respecteren en de naleving actief bevorderen*, Kamerstukken II 2023/24, 21 501-02, nr 2804.

⁴⁵ Voting results on motions submitted during the Debate on the Council of Foreign Affairs on 18 January 2024, https://www.tweedekamer.nl/debat_en_vergadering/plenaire_vergaderingen/details/activiteit?id=2024A00306.

⁴⁶ ‘Hof doet uitspraak: moet Israël stoppen met de oorlog in Gaza?’ *de Volkskrant* (26 January 2024).

⁴⁷ *ibid.*

⁴⁸ VPRO, ‘Buitenhof: 6 april 2025’ (VPRO, 6 April 2025), <https://bit.ly/buitenhof-6-april-2025>

⁴⁹ Advisory Council on International Affairs (Adviesraad Internationale Vraagstukken), *Towards a New Direction for the Netherlands in the Israeli-Palestinian Conflict* (Advisory Report No 39, 23 October 2024) 25.

⁵⁰ ‘Kabinet moet rol van hoeder internationaal recht serieus nemen’ (*Trouw*, 29 October 2024), <https://www.trouw.nl/opinie/kabinet-moet-rol-van-hoeder-internationaal-recht-serieus-nemen~b61311f7/>.

On 7 April 2025, after waiting for four months, a consortium of aid organizations was finally allowed to speak about Gaza with Prime Minister Schoof and Minister of Foreign Affairs Caspar Veldkamp. In a newspaper article on that meeting, it is stated that the aid organizations believe that the Netherlands, as host country of both the International Criminal Court and the International Court of Justice, has an exemplary function, but does not live up to it.⁵¹

It thus seems that the Netherlands is suddenly much less enthusiastic about endorsing its special position as host State of the ICJ, when this means supporting the ICJ in its rulings in relation to the current events in Gaza. And this is upsetting to many who urge the Netherlands to honour its history and reputation as champion of international law.

The situation in Gaza, and in other parts of the occupied Palestinian territories, continues to be catastrophic. A United Nations-mandated commission of inquiry concluded on 16 September 2025 already that Israel is committing genocide against Palestinians in Gaza.⁵² According to the report, Israeli authorities and security forces are responsible for killing Palestinians in Gaza, among other things by deliberately targeting civilians; by knowingly withholding food, water, and medicines from civilians; by severely mistreating detainees; and by preventing births. The commission attributes these genocidal acts to the State of Israel, meaning that the state bears responsibility for genocide under international law. So, this is no longer a risk of genocide. This is a genocide that has already begun and is still ongoing. The Netherlands must thus do everything it can to stop this genocide.⁵³

Members of the opposition parties have been urging the Netherlands Government to intervene in this case as well, as it had done in the other two mass-intervention cases mentioned above. A motion by member of parliament Teunissen, submitted on 13 May 2025, proposed the following:

The Parliament, [...] considering that violations of the laws of war by Israel must be prevented and prosecuted; considering that the legal case brought by South Africa against Israel at the International Court of Justice is an important means for the international community to hold Israel to comply with international humanitarian law; considering that the Netherlands has often been able to make an important contribution to cases at the International Court of Justice; requests the Minister to join the case brought by South Africa against Israel at the International Court of Justice as the Netherlands’.⁵⁴

⁵¹ ‘Hulporganisaties willen meer actie van kabinet tegen Israël’ (NOS, 7 April 2025), <https://nos.nl/artikel/2562733-hulporganisaties-willen-meer-actie-van-kabinet-tegen-israel>.

⁵² UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide* (Report, UN Human Rights Council, 16 September 2025), <https://www.un.org/unispal/document/commission-of-inquiry-report-genocide-in-gaza-a-hrc-60-crp-3/>.

⁵³ For an appreciation of the responsibility to prevent genocide when there is a risk of it, see Minister Veldkamp (Minister of Foreign Affairs), ‘AH 2526, 2025Z09991: Antwoorden van de minister van Buitenlandse Zaken op vragen van het lid Teunissen (PvdD) over genocide in Gaza’ (24 June 2025), <https://open.overheid.nl/documenten/e9427eff-e494-40e8-9fd3-82f3d039d041/file>; and Minister Veldkamp, ‘Beantwoording vragen van de leden Dassen (Volt), Piri (GL-PvdA), Paternotte (D66), Dobbe (SP), Teunissen (PvdD) en Van Baarle (DENK) over het gehouden rondetafelgesprek over de situatie in Gaza en bijbehorende position papers (2025Z10998)’ (24 June 2025), <https://open.overheid.nl/documenten/4a09a198-702d-47a2-9ee0-6e06615450c3/file>.

⁵⁴ Teunissen and others, ‘Motie van het lid Teunissen c.s. over aansluiten bij de zaak van Zuid-Afrika tegen Israël bij het Internationaal Gerechtshof’ Kamerstukken II 2024/25, 32 623, nr 372 (13 May 2025).

This motion was rejected, and the same happened to a whole series of motions suggesting the same.⁵⁵ But then, just before the deadline, the Netherlands Government did suddenly and unexpectedly request the Court to be allowed to intervene in the case initiated by South Africa against Israel relating to the application of the Genocide Convention in the Gaza Strip.⁵⁶ Many States had already done the same.⁵⁷ It is important to note that the intervention was done by the current Netherlands Government, which succeeded the Schoof government. The latter had consistently rejected any intention to intervene in the case.

One might suggest that some intervening States in part did so to protect the interests of a particularly vulnerable group with no access to the ICJ, i.e. the Palestinian people. But the Netherlands insisted that its intervention should not be interpreted in this way:

First of all, the Cabinet wishes to emphasize that by submitting this Declaration of Intervention, it is not taking a substantive position in this case. The Declaration of Intervention does not address the facts of the case or the situation on the ground, but provides a purely legal interpretation of parts of the Genocide Convention. Consequently, the intervention serves not to support any of the parties in the ongoing case, but to support the general objective of promoting the development of international law.⁵⁸

Be that as it may, in its intervention request, the Netherlands argues that forced displacement of persons may lead to acts of genocide under the Genocide Convention; that acts committed against children are especially relevant to establishing specific genocidal intent; and that famine, or the deliberate withholding of humanitarian assistance, may amount to killing as an act of genocide under the Genocide Convention.⁵⁹ Clearly, if persuasively argued, these

⁵⁵ Teunissen, ‘Motie van het lid Teunissen over het aansluiten van Nederland bij de zaak van Zuid-Afrika tegen Israël bij het Internationaal Gerechtshof’ Kamerstukken II 2024/25, 21 501-02, nr 3175 (19 June 2025); Dassen and Ouwehand, ‘Gewijzigde motie van de leden Dassen en Ouwehand over een verklaring van interventie indienen bij het Internationaal Gerechtshof als onderdeel van de Genocidezaak van Zuid-Afrika tegen Israël (t.v.v. 23 432, nr 581)’ Kamerstukken II 2024/25, 23 432, nr 605 (22 August 2025); Koekkoek and others, ‘Motie van het lid Koekkoek c.s. over het besluit over het al dan niet indienen van een verklaring van interventie bij de genocidezaak van Zuid-Afrika tegen Israël vóór aanvang van het verkiezingsreces nemen’ Kamerstukken II 2025/26, 21 501-02, nr 3233 (11 September 2025).

⁵⁶ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* (Declaration of Intervention of the Kingdom of the Netherlands pursuant to art 63 of the Statute of the Court, 11 March 2026).

⁵⁷ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)*, Declaration of Intervention of Colombia, 5 April 2024; Declaration of Intervention of Libya, 10 May 2024; Declaration of intervention of Mexico, 24 May 2024; Application for permission to intervene and declaration of intervention submitted by Palestine, 3 June 2024; Declaration of Intervention of Spain, 28 June 2024; Declaration of intervention of Türkiye, 7 August 2024; Declaration of Intervention of Chile, 12 September 2024; Declaration of intervention of the Maldives, 1 October 2024; Declaration of intervention of Bolivia, 8 October 2024; Declaration of intervention of Ireland, 6 January 2025; Declaration of intervention of Cuba, 10 January 2025; Application for permission to intervene and declaration of intervention submitted by Belize, 30 January 2025; Declaration of intervention of Brazil, 17 September 2025; Declaration of intervention of Comoros, 29 October 2025; Declaration of intervention of Belgium, 23 December 2025; Declaration of intervention of Paraguay, 3 March 2026; Declaration of intervention of Iceland, 11 March 2026; Declaration of intervention of Namibia, 12 March 2026; Declaration of intervention of the United States of America, 12 March 2026; Declaration of intervention of Hungary, 12 March 2026; Declaration of intervention of Fiji, 12 March 2026.

⁵⁸ Minister van Buitenlandse Zaken, ‘Nederlandse verklaring tot interventie in zaak Zuid-Afrika tegen Israël bij het Internationaal Gerechtshof’ (Kamerbrief, 17 March 2026) Kamerstukken II 2025/26, 23 432, nr 667 https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2026D12020&did=2026D12020.

⁵⁹ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* (Declaration of Intervention of the Kingdom of the Netherlands pursuant to art 63 of the Statute of the Court, 11 March 2026).

arguments do help the applicant state South-Africa, and more importantly: the Palestinian people.⁶⁰

When the Netherlands Government announced its intention to request to intervene, many members of parliament seemed surprised, and not happy. Member of Parliament Geert Wilders (PVV) was in particular highly critical.⁶¹ He even put to the vote a motion of no confidence,⁶² but this motion was convincingly rejected.⁶³

4. Netherlands participates in advisory proceedings in the general interest

The Netherlands is increasingly active in advisory proceedings. Most of these proceedings are not of particular relevance to the Netherlands, and thus its decision to intervene is motivated primarily by the general interest. The term “general interest” is used here, and not “common interest”. As explained above, the latter term is used solely to refer to States with a common interest in compliance with a multilateral convention to which they are all parties. Advisory opinions generally do not relate to one particular convention, and it would thus be inappropriate to use the term “common interest” in this context.

When the Netherlands participates in advisory proceedings, it formally participates in its capacity of Member State of the United Nations and Party to the Statute of the Court.⁶⁴ But this category of States includes all 193 UN Member States, and most of these do not participate as frequently in advisory proceedings as the Netherlands does. So, there must be other reasons why the Netherlands is so active in these proceedings. Being the host State is likely to be one of them.

The Netherlands was not always as active as it has been in recent years. In fact, in the early days, the Netherlands did not really participate much, with little to no involvement in the

⁶⁰ The State of Palestine also applied for permission to intervene, on 3 June 2024, as one of the first States to do so. It acceded to the Genocide Convention already on 2 April 2014.

⁶¹ Tweede Kamer der Staten-Generaal, *Handelingen II 2025/26*, nr 51 (12 March 2026), https://www.tweedekamer.nl/kamerstukken/plenaire_verslagen/detail/2025-2026/51.

⁶² Kamerstukken II 2025/26, 23 432, nr 661, *Motie van het lid Wilders over het afkeuren dat Nederland zich heeft gemengd in de genocidezaak tegen Israël bij het ICJ* (12 March 2026), <https://zoek.officielebekendmakingen.nl/kst-23432-661.html>.

⁶³ Tweede Kamer der Staten-Generaal, ‘Kamerstuk 2026Z05074 / 2026D11544’ (Tweede Kamer der Staten-Generaal), <https://www.tweedekamer.nl/kamerstukken/detail?id=2026Z05074&did=2026D11544>.

⁶⁴ See e.g., Kingdom of the Netherlands, *Written Statement* (6 June 1994) 1, in ICJ, *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (Advisory Opinion) [1996] ICJ Rep 66; Kingdom of the Netherlands, *Written Statement* (16 June 1995) 1, in *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) [1996] ICJ Rep 226; Kingdom of the Netherlands, *Statement* (30 January 2004) para 3, in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136; Kingdom of the Netherlands, *Written Statement* (17 April 2009) para 1.3, in *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion) [2010] ICJ Rep 403; Kingdom of the Netherlands, *Written Comments* (17 July 2009) para 1.2, in *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion) [2010] ICJ Rep 403; Kingdom of the Netherlands, *Written Statement* (27 February 2018) para 1.3, in *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (Advisory Opinion) [2019] ICJ Rep 95; Kingdom of the Netherlands, *Written Statement* (21 March 2024) para 1.3, in *Obligations of States in Respect of Climate Change* (Advisory Opinion, 2025); Kingdom of the Netherlands, *Written Comments* (15 August 2024) para 1.2, in *Obligations of States in Respect of Climate Change* (Advisory Opinion, 2025).

advisory proceedings of the 1940s and 1950s.⁶⁵ Both in the 1960s⁶⁶ and 1970s⁶⁷, the Netherlands provided a written and oral statement on the merits in the most important of advisory proceedings. In the 1990s, the Netherlands restricted its participation to written statements.⁶⁸

In more recent times, the Netherlands has always participated in advisory proceedings, with one exception,⁶⁹ but with differing intensity and intentions. The Netherlands generally leaves it to the discretion of the Court to satisfy itself that it has advisory jurisdiction and that it may exercise this jurisdiction with respect to the present request, and then proceeds to comment on the merits of the request. It is rare for the Netherlands to explicitly suggest that the Court should decline to answer the question put to it - for policy reasons.⁷⁰

This is rare, but it has happened. In the *Legality of the Threat or Use of Nuclear Weapons* proceedings, the Netherlands stated as follows:

Although the Netherlands Government is in general very much in favour of the exercise by the Court of its competence to give advisory opinions, it believes that there are good policy reasons why, in this particular case, the Court should decide to abstain from giving the advisory opinion requested.⁷¹

And, in the proceedings about the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Netherlands “request[ed] the Court to exercise its discretion to decline to answer the question put to it by the UN General Assembly in this case”.⁷² The Court was not persuaded, and issued the requested opinion anyways. Since then, the Netherlands Government has been called upon by various members of parliament to ensure respect for this – unwanted – Advisory Opinion. For example, in a motion of 12 June 2013, Member of Parliament Bram van Ojik (Groen Links) called upon the government “to develop

⁶⁵ In the advisory proceedings ICJ, *Competence of the General Assembly for the Admission of a State to the United Nations* (Advisory Opinion) [1950] ICJ Rep 4; ICJ, *Reparation for Injuries Suffered in the Service of the United Nations* (Advisory Opinion) [1949] ICJ Rep 174; ICJ, *Conditions of Admission of a State to Membership in the United Nations* (Advisory Opinion) [1948] ICJ Rep 57, no written or oral statements were provided by the Netherlands. In the advisory proceedings ICJ, *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (Advisory Opinion) [1951], it provided a very short written statement.

⁶⁶ In the advisory proceedings ICJ, *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)* (Advisory Opinion) [1962] ICJ Rep 151, the Netherlands issued both an oral and written statement discussing the merits.

⁶⁷ In the advisory proceedings ICJ, *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)* (Advisory Opinion) [1971] ICJ Rep 16, the Netherlands issued both an oral and written statement discussing the merits.

⁶⁸ The Netherlands provided no written or oral statement in the advisory proceedings ICJ, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* (Advisory Opinion) [1999] ICJ Rep 62; but it did provide written statements in the advisory proceedings on the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (Advisory Opinion) [1996] ICJ Rep 66, as well as ICJ, *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion) [1996] ICJ Rep 226.

⁶⁹ The exception is ICJ, *Judgment No 2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development* (Advisory Opinion) [2012] ICJ Rep 10.

⁷⁰ In the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* proceedings, the Netherlands felt that the World Health Organization was not competent to make the request for an advisory opinion, and the Court agreed. See Kingdom of the Netherlands, Written Statement, ICJ, *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (6 June 1994) 3-6.

⁷¹ Kingdom of the Netherlands, Written Statement, ICJ, *Legality of the Threat or Use of Nuclear Weapons* (16 June 1995) 4.

⁷² Kingdom of the Netherlands, Written Statement, ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (30 January 2004) para 9.

concrete instruments to promote Israel's compliance with the ruling of the International Court of Justice".⁷³ The ruling referred to was the Wall Opinion of 2004.

In the advisory proceedings relating to the unilateral declaration of independence in respect of Kosovo, both a written and oral statement were provided.⁷⁴ In it, the Netherlands made the following points:

- The proclamation of the independence of Kosovo on 17 February 2008 had not affected the application of UN Security Council Resolution 1244;
- Resolution 1244 did not prohibit the proclamation of the independence of Kosovo on 17 February 2008;
- A political solution on the status of Kosovo that has the agreement of all stakeholders has yet to be achieved;
- There had been a serious breach of the obligation to respect and promote the right to self-determination and the obligation to refrain from any forcible action which deprives peoples of this right in Kosovo which justified the proclamation of independence on 17 February 2008 after all effective remedies to achieve a settlement on the status of Kosovo had been exhausted.⁷⁵

In the proceedings about the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, no oral statement, but a written one was issued. After a lengthy exposé on the right to self-determination, the statement ended with three observations. First, the Netherlands submitted that violations of the right to self-determination invalidate any territorial title acquired through unlawful partition; second, that the international responsibility of third States involved in the breach is engaged; and third, that there is an obligation on all States not to recognize or assist in the resulting unlawful situation.⁷⁶ It is important to note that the statement did not say anything whatsoever about what all this might mean for the Chagos Archipelago in particular.

In the proceedings relating to *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory*, the Netherlands did not provide a written statement, but it did give oral submission. The Netherlands made not a single mention of either Palestine or Israel. The oral statement merely provided an exposé of the applicable international law in a general sense, without applying that law to the case at hand.⁷⁷

In its Advisory Opinion, the Court came to the conclusion that Israel's occupation had become illegal over time for being in violation of three *jus cogens* norms of international law:

- (1) The prohibition on the acquisition of territory through force (annexation, which is prohibited under 2(4) UN Charter),

⁷³ Tweede Kamer, *Motie van het lid Van Ojik*, Kamerstukken II 2012/13, 33 417, nr 36.

⁷⁴ Kingdom of the Netherlands, *Written Statement* (17 April 2009), in ICJ, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion) [2010] ICJ Rep 403; Kingdom of the Netherlands, *Written Comments* (17 July 2009), in *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion) [2010] ICJ Rep 403.

⁷⁵ Kingdom of the Netherlands, *Written Statement* (17 April 2009), in ICJ, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion) [2010] ICJ Rep 403, para. 4.1.

⁷⁶ Kingdom of the Netherlands, *Written Statement* (27 February 2018) para 1.3, in ICJ, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (Advisory Opinion) [2019] ICJ Rep 95, paras. 4.8-4.10.

⁷⁷ ICJ, *Verbatim Record of the Public Sitting Held on Tuesday 20 February 2024 at 10 a.m., Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Request for Advisory Opinion) CR 2024/14, 41-52.

- (2) The obligation to respect the right of the Palestinian peoples to self-determination,
- (3) And the obligation to refrain from imposing regimes of racial discrimination and *apartheid*.

In view of the Court, Israel's policies and practices, including the maintenance and expansion of settlements in the West-Bank, the construction of the wall in the Occupied Palestinian Territories, the exploitation of natural resources for the benefit of the settlers and not the local Palestinian population, the comprehensive application of Israeli domestic law in East Jerusalem and its extensive application in the West Bank, were all designed to remain in place indefinitely and create irreversible effects on the ground. Consequently, the Court considered that these policies and practices amounted to annexation of large parts of the Occupied Palestinian Territory. The Court was further of the opinion that the State of Israel's continued presence in the Occupied Palestinian Territory was unlawful, and that the State of Israel was thus under an obligation to bring to an end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible.

Because the obligations breached by Israel have the status of peremptory norms (*jus cogens*) as well as obligations *erga omnes*, in particular the prohibitions of annexation and *apartheid*, and the right of peoples to self-determination, special duties arise for third states. No state may recognize as lawful a situation created by a breach of a peremptory norm, nor may it aid or assist in maintaining it. That is a negative obligation. The Netherlands may not, in any way, help sustain Israel's unlawful presence in the occupied Palestinian territories. At a minimum, the Netherlands must avoid trade and investment relationships that could contribute to maintaining that situation.

The Court also indicated that, when deciding where to locate diplomatic missions in Israel, States must avoid any action that could amount to implicit recognition of Israel's unlawful presence in the Occupied Palestinian Territory, including East Jerusalem. The Schoof cabinet had announced it would examine when relocation of the Dutch embassy from Tel Aviv to Jerusalem can take place. The Netherlands would therefore need to take this Advisory Opinion into account.

In addition, all States must cooperate to bring an end to all breaches of peremptory norms. That is a positive obligation, an obligation to act. The Netherlands must help ensure that any impediment to the Palestinian people's right to self-determination resulting from Israel's unlawful presence in the Occupied Palestinian Territory is removed. And the Netherlands must help ensure that Israel complies with international humanitarian law.

In the proceedings on the *Obligations of States in respect of Climate Change*, the Netherlands provided both a written and oral statement. These proceedings are very different from the ones discussed above, as they do not relate to any particular country or people. In its written statement, the Netherlands argued that all States are under a legal obligation to develop, adopt, and implement effective climate change mitigation policies. The Netherlands also argued that international human rights law requires all States to mitigate climate change because its adverse effects threaten fundamental rights, particularly the rights to life, private and family life, and a healthy environment, thereby imposing both substantive and procedural obligations to adopt reasonable mitigation measures and ensure public participation and access to information. Finally, the Kingdom submitted that the obligation to develop, adopt, and implement a mitigation policy has crystallized into customary international law and constitutes an obligation owed *erga omnes*.⁷⁸

⁷⁸ Kingdom of the Netherlands, *Written Statement* (21 March 2024), in ICJ, *Obligations of States in Respect of Climate Change* (Advisory Opinion, 2025);

And, finally, in the proceedings on the *obligations of Israel in relation to the presence and activities of the United Nations, other International Organizations and Third States in the Occupied Palestinian Territories*, the Netherlands only filed a written statement. In its statement, the Netherlands examined relevant obligations under international law for an occupying Power owed to the population of an occupied territory, as well as to third parties involved in relief operations for the well-being of that population, and the international community as a whole.⁷⁹ Again, not a single mention was made therein of either Israel or Palestine. The Netherlands did not participate in the oral hearings.

In its advisory opinion, the Court concluded that Israel, as an occupying power, must comply with international humanitarian and human rights law obligations in the Occupied Palestinian Territory. These include ensuring civilians' essential supplies, allowing and facilitating humanitarian relief (including through the UN and United Nations Relief and Works Agency for Palestine Refugees in the Near East), protecting medical and relief personnel, prohibiting starvation and forcible transfer, and respecting UN privileges and cooperation duties.⁸⁰

IV. Conclusion: The Problem of Double Standards

René Lefebber, the legal advisor and head of the international law division at the Ministry of Foreign Affairs of the Kingdom of the Netherlands, who represents the Netherlands at the ICJ, was scheduled to give a lecture on 7 May 2024 to the Royal Netherlands Society of International Law on "Using International Litigation To Promote International Law – The Dutch Experience". His talk was thus exactly on the same topic this chapter is addressing.

Some people, including the author of this chapter, asked him by email some questions in advance of his lecture, *inter alia* about his oral argument of 20 February 2024 in the advisory procedure before the ICJ on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*. It would have been worthwhile to find out why he (and therefore the Netherlands) had chosen to provide the Court only with a general exposé of some doctrines of international law, and to say literally nothing about the application of these doctrines to the case of Israel-Palestine, as most other speakers representing other countries had done. Unfortunately, he withdrew as a speaker, and thus he could not explain what had motivated the Netherlands to use this peculiar litigation strategy in both advisory proceedings relating to Israel and Palestine.

This is unfortunate, as many people in the Netherlands and beyond are increasingly dissatisfied by the lack of support from the Netherlands Government for the ICJ when it comes to proceedings before it which relate to Israel and Palestine.

Every week, starting on 21 December 2023, former ministers, diplomats, and civil servants stood – and still stand - outside the main entrance of the Ministry for Foreign Affairs in protest.⁸¹ Academics join them. But while the Minister and his immediate staff, at least under

⁷⁹ ICJ, *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory (Request for Advisory Opinion)*, Written Statement of the Kingdom of the Netherlands (28 February 2025, Case No 196), <https://icj-cij.org/sites/default/files/case-related/196/196-20250204-pre-01-00-en.pdf>.

⁸⁰ ICJ, *Obligations of Israel in Relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in Relation to the Occupied Palestinian Territory* (Advisory Opinion) (22 October 2025) ICJ General List No 196, <https://www.icj-cij.org/sites/default/files/case-related/196/196-20251022-adv-01-00-en.pdf>.

⁸¹ Ivy Dirksen, 'Ambtenaren protesteren tegen Gaza-beleid kabinet: "Belachelijk dat we hier moeten staan"' (RTL Nieuws, 21 December 2023), <https://www.rtl.nl/nieuws/artikel/5425587/demonstratie-ambtenaren-gaza-ministerie-van-buitenlandse-zaken>.

the Schoof cabinet, have refused even to speak with these “weigerambtenaren”⁸² on reasonable terms, others are making brutally realistic assessments. They understand, far more clearly than the Netherlands Government it seems, the geopolitical reality. They read the words, intentions, and actions of the Israeli leadership and take them at face value. They know the Western world - including the Netherlands - will not meaningfully intervene. This is not just a tragedy for the people of Gaza. It is a profound failure for the Netherlands. A country that has long prided itself on being a champion of international law, with its legal capital of the world at the heart of it, is now watching that legacy unravel - rapidly, and in full view of the world.

It makes the Netherlands vulnerable to accusations of double standards. In the context of international law and institutional multilateral practice, an allegation of double standards may be understood as an allegation of unequal or inconsistent treatment of similarly situated actors, actions, or circumstances - whether in the development, interpretation, implementation, justification, or enforcement of international legal norms or institutional mandates - where such treatment is asserted to lack a principled basis and to undermine a commitment to equality, impartiality, consistency, or universality.⁸³

Indeed, the active engagement of the Netherlands in cases that are of concern to the international community as a whole before the ICJ, contrasts with the Netherlands’ more reserved approach to the case brought by South Africa against Israel concerning obligations under the Genocide Convention in the Gaza Strip, and with the Netherlands’ limited engagement with advisory proceedings relating to the legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territories.

In its advisory letter dated 23 October 2024 entitled *Towards a New Direction for the Netherlands in the Israeli-Palestinian Conflict* addressed to the Netherlands Minister of Foreign Affairs, Caspar Veldkamp, to which reference was made earlier, the AIV cautioned against the risks of perceived “double standards” in applying international law, noting how inconsistencies, which are often motivated by political rather than legal considerations, can undermine the credibility of both the Netherlands and the broader international legal system, including the ICJ itself:

The inconsistent invocation and application of rules of international law contribute significantly to the undermining and politicization of that body of law, and undercut the overarching idea that international law applies, and is applied equally, to all states. Over the past year, inconsistency in the invocation and application of international law by Europe and European states has been repeatedly raised in the international political arena, including by UN Secretary-General António Guterres. The efforts that the Netherlands and Europe have made to create accountability mechanisms in the war in Ukraine, for example, find no equivalent when it comes to the Israeli-Palestinian conflict. Unbalanced enforcement fuels anti-Europeanism and anti-Americanism in many countries of the Global South.⁸⁴

⁸² “Weigerambtenaren” are public officials (especially civil servants) who refuse to carry out certain official duties because of personal, moral, or religious objections. The name “weigerambtenaar” was originally used as an insult or label by outsiders, but was later adopted proudly by the group it was aimed at. In Dutch, we call this a “geuzennaam”.

⁸³ Dustin A Lewis, *International Law and State Allegations of Double Standards: A Conceptual Analysis* (Legal Concept Paper, April 2025), <https://pilac.law.harvard.edu/double-standards>.

⁸⁴ Advisory Council on International Affairs (Adviesraad Internationale Vraagstukken), *Towards a New Direction for the Netherlands in the Israeli-Palestinian Conflict* (Advisory Report No 39, 23 October 2024) 18.

A consistent, principled support of and participation in the ICJ's work will not only strengthen the Netherlands' credibility but also enhance the legitimacy of international legal institutions, especially the ICJ itself.

One may think that the current government, headed by Rob Jetten (D66), is doing better than its predecessor. Indeed, the current government decided, just before the deadline, to intervene in the case between South-Africa and Israel. That is, as noted above, without any doubt a positive sign. But there are also worrying signals. When the USA and Israel attacked Iran, which is generally considered an act of aggression and thus one of the most serious breaches of international law, the current Minister for Foreign Affairs, Tom Berendsen (CDA) said:

[The Netherlands Government] stands for international law. We want to promote the international legal order, and we will do everything we can to use our position in the world to ensure that we have a world order based on international law. At the same time, we must be realistic. We see that international law as we envision it is being pushed aside by various major powers. And we will have to have a discussion together about how we as the Netherlands will navigate within that new world order in the future. At the same time, I continue to state that given the maliciousness of the Iranian regime the Netherlands Government has understanding that Israel and the US felt compelled to intervene.⁸⁵

It is, of course, difficult to reconcile this approach, in which the relevance of international law is explicitly called into question and in which a selective application of it is advocated, with the "special position" of the Netherlands and its constitutional duty under Article 90 of the Netherlands Constitution, which requires that the Netherlands present itself as a defender of the international legal order – especially when this is difficult to do.⁸⁶

⁸⁵ Tweede Kamer der Staten-Generaal, *Plenaire debat (Vragenuur)* (3 March 2026, 2026D20980) <https://www.tweedekamer.nl/downloads/document?id=2026D20980>.

⁸⁶ Otto Spijkers, 'The Iran War and the Dutch Retreat from International Law: Without International Law as a Compass, the Netherlands Is Adrift in the Fog of a New World Order' (Verfassungsblog, 4 March 2026) <https://verfassungsblog.de/the-iran-war-and-the-dutch-retreat-from-international-law/>.