

No. 44965*

**Netherlands
and
International Criminal Court**

Headquarters Agreement between the International Criminal Court and the host State (with exchange of letters). The Hague, 7 June 2007

Entry into force: *1 March 2008 by notification, in accordance with article 58*

Authentic texts: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 28 May 2008*

**Pays-Bas
et
Cour pénale internationale**

Accord de siège entre la Cour pénale internationale et l'État hôte (avec échange de lettres). La Haye, 7 juin 2007

Entrée en vigueur : *1er mars 2008 par notification, conformément à l'article 58*

Textes authentiques : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 28 mai 2008*

* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available.
Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive.
La version finale RTNU n'est pas encore disponible.*

[ENGLISH TEXT – TEXTE ANGLAIS]

11 (2007) Nr. 1

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2007 Nr. 125

A. TITEL

*Zetelverdrag tussen het Internationaal Strafhof en het Gastland;
(met briefwisseling)
's-Gravenhage, 7 juni 2007*

B. TEKST

**Headquarters Agreement between the International Criminal
Court and the host State**

The Kingdom of the Netherlands and the International Criminal Court,

Whereas the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries established the International Criminal Court with power to exercise its jurisdiction over persons for the most serious crimes of international concern;

Whereas article 3, paragraphs 1 and 2, of the Rome Statute respectively provide that the seat of the Court shall be established at The Hague in the Netherlands and that the Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf;

Whereas article 4 of the Rome Statute provides that the Court shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes;

Whereas article 48 of the Rome Statute provides that the Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes;

Whereas article 103, paragraph 4, of the Rome Statute provides that, if no State is designated under paragraph 1 of that article, sentences of

imprisonment shall be served in a prison facility made available by the host State in accordance with the conditions set out in the headquarters agreement;

Whereas the Assembly of States Parties, at the third meeting of its first session held from 3 to 10 September 2002, adopted Basic principles governing a headquarters agreement to be negotiated between the Court and the host country, and adopted the Agreement on Privileges and Immunities of the International Criminal Court;

Whereas the Court and the host State wish to conclude an agreement to facilitate the smooth and efficient functioning of the Court in the host State;

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Use of terms

For the purpose of this Agreement:

a) “the Statute” means the Rome Statute of the International Criminal Court adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court;

b) “the Court” means the International Criminal Court established by the Statute; for the purpose of this Agreement, the Secretariat shall be an integral part of the Court;

c) “the host State” means the Kingdom of the Netherlands;

d) “the parties” means the Court and the host State;

e) “States Parties” means States Parties to the Statute;

f) “representatives of States” means all delegates, deputy delegates, advisers, technical experts, secretaries, and any other accredited members of delegations;

g) “the Assembly” means the Assembly of States Parties;

h) “the Bureau” means the Bureau of the Assembly;

i) “subsidiary bodies” means the bodies established by the Assembly or the Bureau;

j) “the officials of the Court” means the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar and staff of the Court;

k) “the judges” means the judges of the Court elected by the Assembly in accordance with article 36, paragraph 6, of the Statute;

l) “the Presidency” means the organ composed of the President and the First and Second Vice-Presidents of the Court in accordance with article 38, paragraph 3, of the Statute;

- m) “the President” means the President of the Court elected by the judges in accordance with article 38, paragraph 1, of the Statute;
- n) “the Prosecutor” means the Prosecutor elected by the Assembly in accordance with article 42, paragraph 4, of the Statute;
- o) “the Deputy Prosecutors” means the Deputy Prosecutors elected by the Assembly in accordance with article 42, paragraph 4, of the Statute;
- p) “the Registrar” means the Registrar elected by the judges in accordance with article 43, paragraph 4, of the Statute;
- q) “the Deputy Registrar” means the Deputy Registrar elected by the judges in accordance with article 43, paragraph 4, of the Statute;
- r) “staff of the Court” means the staff of the Registry and the Office of the Prosecutor as referred to in article 44 of the Statute. Staff of the Registry includes staff of the Presidency and of Chambers, and staff of the Secretariat;
- s) “the Secretariat” means the Secretariat of the Assembly established by resolution ICC-ASP/2/Res.3 dated 12 September 2003;
- t) “interns” means graduates or postgraduates who, not being members of staff of the Court, have been accepted by the Court into the internship programme of the Court for the purpose of performing certain tasks for the Court without receiving a salary from the Court;
- u) “visiting professionals” means persons who, not being members of staff of the Court, have been accepted by the Court into the visiting professional programme of the Court for the purpose of providing expertise and performing certain tasks for the Court without receiving a salary from the Court;
- v) “counsel” means defence counsel and the legal representatives of victims;
- w) “witnesses”, “victims” and “experts” means persons designated as such by the Court;
- x) “the premises of the Court” means buildings, parts of buildings and areas, including installations and facilities made available to, maintained, occupied or used by the Court in the host State in connection with its functions and purposes, including detention of a person, or in connection with meetings of the Assembly, including its Bureau and subsidiary bodies;
- y) “the Ministry of Foreign Affairs” means the Ministry of Foreign Affairs of the host State;
- z) “the competent authorities” means national, provincial, municipal and other competent authorities under the laws, regulations and customs of the host State;
- aa) “the Agreement on Privileges and Immunities of the Court” means the Agreement on Privileges and Immunities of the International Criminal Court referred to in article 48 of the Statute and adopted at the third meeting of the first session of the Assembly held from 3 to 10 September 2002 at the United Nations Headquarters in New York;

bb) “the Vienna Convention” means the Vienna Convention on Diplomatic Relations of 18 April 1961;

cc) “the Rules of Procedure and Evidence” means the Rules of Procedure and Evidence adopted in accordance with article 51 of the Statute.

Article 2

Purpose and scope of this Agreement

This Agreement shall regulate matters relating to or arising out of the establishment and the proper functioning of the Court in the host State. It shall, *inter alia*, provide for the long-term stability and independence of the Court and facilitate its smooth and efficient functioning, including, in particular, its needs with regard to all persons required by the Court to be present at its seat and with regard to the transfer of information, potential evidence and evidence into and out of the host State. This Agreement shall also regulate matters relating to or arising out of the establishment and proper functioning of the Secretariat in the host State, and its provisions shall apply, *mutatis mutandis*, to the Secretariat. This Agreement shall, as appropriate, regulate matters relating to the Assembly, including its Bureau and subsidiary bodies.

CHAPTER II

STATUS OF THE COURT

Article 3

Legal status and juridical personality of the Court

The Court shall have international legal personality in accordance with article 4, paragraph 1, of the Statute, and shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes. It shall, in particular, have the capacity to contract, to acquire and to dispose of immovable and movable property and to participate in legal proceedings.

Article 4

Freedom of assembly

1. The host State guarantees to the Assembly, including its Bureau and subsidiary bodies, full freedom of assembly, including freedom of discussion, decision and publication.

2. The host State shall take all necessary measures to ensure that no impediment is placed in the way of conducting meetings convened by the Assembly, including its Bureau and subsidiary bodies.