

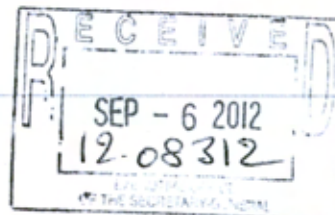
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TO: ABP  
CC: LSH, JA



MINISTER OF FOREIGN AFFAIRS

His Excellency Mr Ban Ki-moon  
Secretary-General of the United Nations  
NEW YORK



ACTION JA  
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Selous

The Hague  
10 August 2012

Your Excellency,

I am writing with reference to the High-Level Meeting (HLM) on the Rule of Law at the National and International Levels, which will take place on the margins of the UN General Assembly on 24 September 2012 in New York.

The Netherlands warmly welcomes your report of 16 March 2012, which sets out a programme of action to strengthen the rule of law at national and international level. More specifically, we consider the HLM an important starting point to enhance the quality, coordination and coherence of the collective efforts of the UN, its members and other stakeholders in the field of the rule of law.

The promotion and protection of the rule of law are a key priority of Dutch foreign policy. The Netherlands is proud to host numerous international institutions concerned with peace and justice, most notably the International Court of Justice. Against this background, I strongly support the attention you devote to the importance of international adjudicative mechanisms in your recent report on the rule of law and, more particularly, the announcement of a campaign to increase the number of member states accepting the compulsory jurisdiction of the ICJ.

The Netherlands wishes to utilise the political momentum of the HLM to highlight the key role played by the International Court of Justice (ICJ) and the Permanent Court of Arbitration (PCA) in the peaceful settlement of disputes between States. We intend to organise a side event on this issue from 8:15 until 10:00 am on 24 September at UN Headquarters. Both the President of the ICJ and the Secretary-General of the PCA have expressed their willingness to support the side event and deliver a brief speech.

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It would be a great honour if we could work with you on this. In particular, I would be very honoured if you would be willing to start or conclude the side event with opening or closing remarks.

The Netherlands stands ready to assist you and your secretariat with your campaign on the ICJ. We would like to offer you the opportunity to use the side event on 24 September to formally launch the campaign. Please do not hesitate to contact us to discuss this matter further.

Please accept, Your Excellency, the assurances of my highest consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Uri Rosenthal', written in a cursive style.

Uri Rosenthal  
Minister of Foreign Affairs of the Kingdom of the Netherlands

Cc: Ms Patricia O'Brien, United Nations Legal Counsel



Kingdom of the Netherlands

To: The Executive Office of the Secretary-General  
and the Deputy Secretary-General of the United Nations  
United Nations Headquarters  
Room NL-03019,  
New York, N.Y. 10017  
Fax: (212) 963-2155

New York, 5 September 2012

## INVITATION

Ministerial Breakfast Meeting on the occasion of the Rule of Law  
High Level Meeting of the 67<sup>th</sup> Session of the General Assembly

**Peaceful Settlement of Conflict: The Elegant Way Out**  
**The role of the International Court of Justice and the Permanent Court of Arbitration**

Monday, 24 September 2012, 7.45 – 9.00 a.m.

Delegates Dining Room  
United Nations Headquarters  
Visitor's entrance on First Avenue at 46<sup>th</sup> Street  
New York, N.Y. 10017

The Minister of Foreign Affairs of the Kingdom of the Netherlands, H.E. Dr. U. Rosenthal, cordially invites H.E. Mr. Ban Ki-moon, Secretary-General and Mr. Jan Eliasson, Deputy Secretary-General to a ministerial level breakfast meeting titled: **"Peaceful settlement of conflict: the elegant way out. The role of the International Court of Justice and the Permanent Court of Arbitration"**, in honor of the Rule of Law High Level Meeting on 24 September 2012 and in support of the Secretary-General's efforts to launch a campaign to increase the number of Member States that accept as compulsory the jurisdiction of the International Court of Justice.

Please be advised that this event is by invitation only. It would be appreciated if you could RSVP at your earliest convenience, no later than 17 September 2012, to Ms. Roos Petersen: (212) 519 9609 or by email: [nyv-rsvp@minbuza.nl](mailto:nyv-rsvp@minbuza.nl)

For further information about the meeting please refer to enclosed concept note or contact:

Ms. Sanne Löwenhardt, Focal Point Rule of Law, Permanent Mission of the Kingdom of the Netherlands to the United Nations: (212) 519 9513, Email: [sanne.lowenhardt@minbuza.nl](mailto:sanne.lowenhardt@minbuza.nl)

Please note that United Nations Grounds Passes are required in order to get access to the venue.



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Ministerial Breakfast Meeting on the occasion of the Rule of Law  
High Level Meeting of the 67th Session of the General Assembly

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**"PEACEFUL SETTLEMENT OF CONFLICT: THE ELEGANT WAY OUT"**

**THE ROLE OF THE INTERNATIONAL COURT OF JUSTICE AND THE PERMANENT COURT OF  
ARBITRATION**

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Monday, 24 September 2012, 7.45 – 9.00 a.m.

Delegates Dining Room - United Nations Headquarters

One of the key features of the Rule of Law at international level is for States to have recourse to international adjudicative mechanisms to settle their disputes peacefully, without the threat or use of force. This was duly noted by the Secretary-General in his report *"Delivering justice: Programme of action to strengthen the Rule of Law at the national and international levels"* dated 16 March 2012. However, the SG also notes that the jurisdiction of international adjudicative bodies has not yet reached its full potential.

In his report, the SG identifies several limiting factors such as the reluctance by some States to consistently use international adjudicative bodies, the rarity with which the principal organs of the UN seek advisory opinions from the International Court of Justice (ICJ), and, importantly, the limited number of States that have accepted the compulsory jurisdiction of the ICJ. The SG therefore has decided to launch a campaign to increase the number of Member States that accept the jurisdiction of the ICJ as compulsory. The Netherlands, as proud host country of many international judicial institutions, among which, the **International Court of Justice** and the **Permanent Court of Arbitration**, supports the Secretary-General's efforts. We are pleased to facilitate a discussion on the different options available for the peaceful settlement of disputes.

While there are many different modalities for peaceful dispute resolution, during the side-event we wish to pay specific attention to the two main residents of the Peace Palace in The Hague, the ICJ and PCA and their unique mandates. These allow them to contribute to the peaceful settlement of disputes, either by judicial settlement or arbitration. Both Courts fulfill a vital role for the international community in relation to Chapter VI of the United Nations Charter ("Pacific Settlement of Disputes"). We are therefore honored that both the President of the ICJ and the Secretary-General of the PCA are willing to share their thoughts on the promotion of peaceful settlement of international disputes and provide insight into the functioning, achievements and challenges of these two Courts.

The side event will be a breakfast meeting on **September 24, from 7.45 – 9.00 a.m.** in the Delegates Dining Room of the United Nations Headquarters. The Dutch Minister of Foreign Affairs will introduce the subject. The President of the International Court of Justice and the Secretary-General of the Permanent Court of Arbitration will speak thereafter. The Secretary-General of the United Nations has also been invited to participate in the event. Next, the floor will be open to Heads of Delegation or other participants of ministerial level to contribute to the meeting.

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Please be advised that this event is by invitation only. RSVP at your earliest convenience to Ms. Roos Petersen, the Permanent Mission of the Kingdom of the Netherlands to the UN at [nyv-rsvp@minbuza.nl](mailto:nyv-rsvp@minbuza.nl).

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Ministerial Breakfast Meeting on the occasion of the Rule of Law  
High Level Meeting of the 67th Session of the General Assembly

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**Background**

**International Court of Justice**

Established in June 1945 by the Charter of the United Nations, the International Court of Justice (ICJ) is the principal judicial organ of the UN. The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. As the concept of the Rule of Law calls for the peaceful resolution of legal disputes, the International Court of Justice could play a paramount role in this regard. However, its potential has not yet been fully used by States, partly due to the fact that only 67 Member States have recognized its compulsory jurisdiction by making a declaration under Article 36 (2) of its Statute. Nevertheless, the Court is very active at present, having rendered 4 judgments and 1 advisory opinion since the beginning of this year and having 11 pending cases in its docket.

Since 1946 the ICJ has delivered 113 judgments on disputes concerning *inter alia* land frontiers, maritime boundaries, territorial sovereignty, the non-use of force, human rights, violation of international humanitarian law, non-interference in the internal affairs of States, diplomatic relations, hostage-taking, the right of asylum, nationality, guardianship, rights of passage and economic rights. In addition, the Court has given 27 advisory opinions, concerning *inter alia* the accordance with international law of the unilateral declaration of independence of Kosovo, legal consequences of the construction of a wall in the occupied Palestinian territory, admission to UN membership, reparation for injuries suffered in the service of the UN, territorial status of South-West Africa and Western Sahara, and the legality of the threat or use of nuclear weapons.

**Permanent Court of Arbitration**

The Permanent Court of Arbitration (PCA) is an intergovernmental organization with 115 Member States. Established in 1899 by the First Hague Peace Conference to facilitate arbitration between States as a "means of ensuring to all peoples the benefits of a real and lasting peace," the PCA has adapted to the changing dispute resolution needs of the international community by administering, in addition to inter-State arbitrations, cases involving various combinations of States and non-State entities, including inter-governmental organizations, corporations, and individuals. The PCA currently acts as registry for over 60 cases, involving areas as diverse as maritime boundary disputes, treaty interpretation, human rights, the environment, as well as disputes between foreign investors and host States under bilateral and multilateral investment treaties and contracts.

Uniquely, the PCA's broad mandate also allows it to take on public international law disputes that are *intra-State* in nature, such as the 2009 *Abyei Arbitration (Government of Sudan/Sudan People's Liberation Movement/Army)*, where the parties – who were at an impasse concerning one vital aspect of their peace agreement following decades of civil war – tasked an arbitral tribunal to resolve important issues relating to the delimitation of the Abyei area, which straddles North and South Sudan. UNCLOS-based disputes are increasingly being brought to arbitration by States. In the case of *Guyana v. Suriname*, a tribunal delimited the maritime boundary between those two States and also dealt with sensitive issues concerning the threat or use of force.

As for disputes between States and non-State entities, investment treaties now form a major component of the PCA's docket, such as the 2008 *Saluka Investments B.V. v. Czech Republic* arbitration, which is a leading case that analyzed the scope and content of the "fair and equitable treatment" standard prevalent under most investment treaties.



*Netherlands Permanent Representative  
to the United Nations*

*New York, 5 September 2012*

*Dear Secretary-General,*

*Please find enclosed an original letter of the Minister of Foreign Affairs of the Kingdom of the Netherlands regarding a side event organized by the Netherlands in the margins of the Rule of Law High Level Meeting.*

*The side event is titled: "Peaceful settlement of conflict: the elegant way out".  
Contrary to the time mentioned in the letter of the Minister of Foreign Affairs the event will be held in the morning of September 24 **from 07.45 – 9.00 AM.***

*We have also enclosed the invitation to the side event and a concept note on the meeting.*

*I hope you will be able to attend*

*Sincerely yours,*

*Herman Schaper*

*H.E. Mr. Ban Ki-moon  
Secretary-General of the United Nations  
1<sup>st</sup> Avenue 46<sup>th</sup> Street, 3<sup>rd</sup> floor, NL-3019  
New York, NY 10017*