The Hague, 15 April 2026
To the Minister of Foreign Affairs
Mr. T. Berendsen
Ministry of Foreign Affairs, The Hague

Copy: Members of the Standing Committee on Foreign Affairs, House of Representatives

Subject: Dutch intervention in South Africa v. Israel (ICJ)

Your Excellency,

Following the upcoming Foreign Affairs Council of Thursday, 16 April 2026, thinc., The Hague Initiative for International Cooperation, addresses you regarding the declaration of intervention submitted by the Netherlands on 12 March 2026 in the genocide case *South Africa v. Israel* before the International Court of Justice (ICJ). The parliamentary letter on this matter is scheduled for discussion under agenda item 5 on that day.

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1. The intervention is not neutral

The government has presented the intervention in the House of Representatives as a "procedurally neutral" contribution to the interpretation of the Genocide Convention. According to the government, the Netherlands does not take sides. This characterization, however, is not legally sustainable and is contradicted both by the proceedings themselves and by a careful reading of the declaration.

The declaration refers exclusively to three elements drawn directly from South Africa's application: the intentional targeting of children, forced displacement, and starvation as a method. Nowhere is Hamas mentioned. Nor does the intervention refer to the attacks of 7 October 2023, or to the specific context of high-intensity urban warfare. Legal analysis by thinc. shows that the selection of precisely these three themes closely reflects the one-sided narrative of South Africa and therefore cannot be qualified as neutral.[1]

This assessment is shared by Prof. Geert-Jan Knoops, lead counsel at the ICC, who has concluded that the declaration "clearly supports South Africa's position" and that "the claim that this is a neutral declaration is a misreading." He further notes that the intervention "is certainly not as innocuous as was presented in the House of Representatives."[2]

It is telling that comparable countries such as France, the United Kingdom, Canada, and Denmark — which previously intervened alongside the Netherlands in the genocide case against Myanmar — have refrained from intervening in this case. The Netherlands has apparently made a different assessment, and has informed Parliament only afterwards. In our

view, through this intervention the Netherlands has departed from its previous course of upholding international law and has taken a different direction, as further explained below.

The background of the proceedings themselves also deserves explicit attention. The case brought by South Africa before the ICJ is far from neutral. There are documented links between South Africa, Hamas, and Iran, and there are serious indications that the proceedings have been partially financed by Iran.[3] South Africa is therefore not acting as an impartial guardian of international law, but as an actor within a geopolitical conflict.

In this case, international law — and the Genocide Convention in particular — is being used as an instrument of political pressure rather than as a neutral legal framework. By joining these proceedings, the Netherlands, intentionally or not, lends legitimacy to that process. In our view, this consequence has not been sufficiently considered. As a result, the objective the Netherlands seeks to achieve — namely, the protection of international law — is undermined. The intervention may negatively affect the process of objective legal adjudication and could even weaken it.

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2. The holistic approach undermines the evidentiary standard

Genocide is one of the gravest classifications in international law — more serious than war crimes or crimes against humanity. Its determination requires proof of a unique and exceptional element: *dolus specialis*, namely the specific intent to destroy, in whole or in part, a protected group as such.

The ICJ has repeatedly emphasized that this intent must be proven "fully conclusively."[4] Precisely because of the gravity of this crime, the legal practice surrounding the Genocide Convention must be safeguarded with the utmost care.

In its declaration, the Netherlands advocates a "holistic approach" to the concept of genocide, whereby individual acts are assessed collectively as indicators of genocidal intent. This approach is in tension with established ICJ jurisprudence and effectively lowers the evidentiary threshold for the most serious accusation in international law.

Such an approach not only undermines the legal protection of the accused state, but also devalues the concept of genocide itself, with potentially far-reaching consequences for future cases. Other intervening states, such as Fiji and Paraguay, have explicitly requested the Court to apply strict evidentiary standards and to consider counter-indications of genocidal intent. The Netherlands has failed to do so, thereby placing itself outside this group.

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3. Consequences for the position of the Netherlands

The Netherlands has a longstanding and respected tradition in international law, which entails an obligation of consistency and legal rigor. By aligning itself with a one-sided interpretation of the Genocide Convention, the Netherlands places itself among states that instrumentalize this legal framework for political purposes. This is detrimental to the Netherlands' long-term credibility.

Furthermore, the geopolitical context of this case has not been sufficiently taken into account. If the Netherlands takes international law seriously, it must exercise restraint in intervening in a clearly politically driven case. Peace and security are achieved through law, dialogue, and cooperation — not through selective legal interventions that undermine trust in international legal institutions and deepen divisions rather than bridge them.

Request

On the basis of the above, thinc. primarily requests that you withdraw the declaration of intervention. As a guardian of international law and host country of the ICJ in The Hague, it would be appropriate for the Netherlands not to engage politically in a case that is before the Court, and to adhere to established international legal standards concerning the definition of genocide under the Genocide Convention, rather than seeking to modify them in this particular instance.

Alternatively, should the Netherlands decide to remain a party to the proceedings, we request that in its further written submissions it substantively qualify its declaration by addressing the points raised by other intervening states, including Paraguay, Fiji, and the United States, namely:

- the requirement of conclusive proof of genocidal intent in accordance with established ICJ jurisprudence;
- the military and contextual circumstances, which must be expressly taken into account in assessing genocidal intent;
- the critical evaluation of the evidentiary value of UN and NGO reports, which should be assessed on their own merits and in accordance with the applicable standards of proof;
- and the geopolitical background of the proceedings.

We trust that you will give this request serious consideration, in the interest of the integrity and long-term standing of the Netherlands in international law. We remain at your disposal to provide further clarification.

Yours sincerely,

Andrew E.L. Tucker BA/LLB BCL
Jurist and Director
The Hague Initiative for International Cooperation