TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2002 Nr. 135

A. TITEL

Statuut van Rome inzake het Internationale Strafhof; Rome, 17 juli 1998

B. TEKST

De Engelse en de Franse tekst van het Statuut zijn geplaatst in *Trb*. 1999, 13.

Voor de ondertekeningen zie ook *Trb.* 2000, 120. In dat Tractatenblad wordt ten onrechte 15 september 2000 als datum van ondertekening voor Sierra Leone vermeld. Deze datum dient, zoals ook al vermeld in *Trb*. 1999, 13, 17 oktober 1998 te zijn.

Het Statuut is voorts nog ondertekend voor:

Barbados	8 september 2000
Cambodja	23 oktober 2000
de Verenigde Arabische Emiraten	27 november 2000
Syrië	29 november 2000
Peru	7 december 2000
Bahrein	11 december 2000
Nauru	13 december 2000
de Federale Republiek Joegoslavië	19 december 2000
Uruguay	19 december 2000
Oman	20 december 2000
Egypte ¹)	26 december 2000
Algerije	28 december 2000
de Filippijnen	28 december 2000
Guyana	28 december 2000
Jemen	28 december 2000
Kaapverdië	28 december 2000
	28 december 2000
Mozambique	28 december 2000
Sao Tomé en Principe	
de Seychellen	28 december 2000
de Bahama's	29 december 2000

Mongolië	29 december 2000
Oezbekistan	29 december 2000
Tanzania	29 december 2000
Iran	31 december 2000
Israël ²)	31 december 2000
de Verenigde Staten van Amerika ³)	31 december 2000

1) Onder de volgende verklaring:

"1. Pursuant to article 87, paragraphs 1 and 2, the Arab Republic of Egypt declares that the Ministry of Justice shall be the party responsible for dealing with requests for cooperation with the Court. Such requests shall be transmitted through the diplomatic channel. Requests for cooperation and any documents supporting the request shall be in the Arabic language, being the official language of the State, and shall be accompanied by a translation into English being one of the

working languages of the Court.

2. The Arab Republic of Egypt affirms the importance of the Statute being interpreted and applied in conformity with the general principles and fundamental rights which are universally recognized and accepted by the whole international community and with the principles, purposes and provisions of the Charter of the United Nations and the general principles and rules of international law and international humanitarian law. It further declares that it shall interpret and apply the references that appear in the Statute of the Court to the two terms fundamental rights and international standards on the understanding that such references are to the fundamental rights and internationally recognized norms and standards which are accepted by the international community as a whole.

- 3. The Arab Republic of Egypt declares that its understanding of the conditions, measures and rules which appear in the introductory paragraph of article 7 of the Statute of the Court is that they shall apply to all the acts specified in that article.
- 4. The Arab Republic of Egypt declares that its understanding of article 8 of the Statute of the Court shall be as follows:
- (a) The provisions of the Statute with regard to the war crimes referred to in article 8 in general and article 8, paragraph 2 (b) in particular shall apply irrespective of the means by which they were perpetrated or the type of weapon used, including nuclear weapons, which are indiscriminate in nature and cause unnecessary damage, in contravention of international humanitarian law.
- (b) The military objectives referred to in article 8, paragraph 2 (b) of the Statute must be defined in the light of the principles, rules and provisions of international humanitarian law. Civilian objects must be defined and dealt with in accordance with the provisions of the Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I) and, in particular, article 52 thereof. In case of doubt, the object shall be considered to be civilian.
- (c) The Arab Republic of Egypt affirms that the term "the concrete and direct overall military advantage anticipated" used in article 8, paragraph 2 (b) (iv), must be interpreted in the light of the relevant provisions of the Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I). The term must also be interpreted as referring to the advantage anticipated by the perpetrator at the time when the crime was committed. No justification may be adduced for the nature of any crime which may cause incidental damage in violation of the law applicable in armed conflicts. The overall military advantage must not be used as a basis on which to justify the ultimate goal of the war or any other strategic goals. The advantage anticipated must be proportionate to the damage inflicted.

(d) Article 8, paragraph 2 (b) (xvii) and (xviii) of the Statute shall be applicable to all types of emissions which are indiscriminate in their effects and the weapons used to deliver them, including emissions resulting from the use of nuclear weapons.

5. The Arab Republic of Egypt declares that the principle of the non-retroactivity of the jurisdiction of the Court, pursuant to articles 11 and 24 of the Statute, shall not invalidate the well established principle that no war crime shall be barred from prosecution due to the statute of limitations and no war criminal shall escape justice or escape prosecution in other legal jurisdictions.".

2) Onder de volgende verklaring:

"Being an active consistent supporter of the concept of an International Criminal Court, and its realization in the form of the Rome Statute, the Government of the State of Israel is proud to thus express its acknowledgment of the importance, and indeed indispensability, of an effective court for the enforcement of the rule of law and the prevention of impunity.

As one of the originators of the concept of an International Criminal Court, Israel, through its prominent lawyers and statesmen, has, since the early 1950's, actively participated in all stages of the formation of such a court. Its representatives, carrying in both heart and mind collective, and sometimes personal, memories of the holocaust – the greatest and most heinous crime to have been committed in the history of mankind – enthusiastically, with a sense of acute sincerity and seriousness, contributed to all stages of the preparation of the Statute. Responsibly, possessing the same sense of mission, they currently support the work of the ICC Preparatory Commission.

At the 1998 Rome Conference, Israel expressed its deep disappointment and regret at the insertion into the Statute of formulations tailored to meet the political agenda of certain states. Israel warned that such an unfortunate practice might reflect on the intent to abuse the Statute as a political tool. Today, in the same spirit, the Government of the State of Israel signs the Statute while rejecting any attempt to interpret provisions thereof in a politically motivated manner against Israel and its citizens. The Government of Israel hopes that Israel's expressions of concern of any such attempt would be recorded in history as a warning against the risk of politicization, that might undermine the objectives of what is intended to become a central impartial body, benefiting mankind as a whole.

Nevertheless, as a democratic society, Israel has been conducting ongoing political, public and academic debates concerning the ICC and its significance in the context of international law and the international community. The Court's essentiality – as a vital means of ensuring that criminals who commit genuinely heinous crimes will be duly brought to justice, while other potential offenders of the fundamental principles of humanity and the dictates of public conscience will be properly deterred – has never seized to guide us. Israel's signature of the Rome Statute will, therefore, enable it to morally identify with this basic idea, underlying the establishment of the Court.

Today, [the Government of Israel is] honoured to express [its] sincere hopes that the Court, guided by the cardinal judicial principles of objectivity and universality, will indeed serve its noble and meritorious objectives.".

³) Op 6 mei 2002 heeft de regering van de Verenigde Staten van Amerika de volgende mededeling gedaan:

"his is to inform you, in connection with the Rome Statute of the International Criminal Court adopted on July 17, 1998, that the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000. The United States

requests that its intention not to become a party, as expressed in this letter, be reflected in the depositary's status lists relating to this treaty.".

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C. VERTALING

Zie Trb. 2000, 120.

In dat Tractatenblad dient in de vertaling de volgende correctie te worden aangebracht:

Op blz. 219 (van dat Tractatenblad) dient artikel 70, vierde lid, als volgt te worden vervangen: "Op verzoek van het Hof, legt een Staat die Partij is de zaak ter vervolging voor aan zijn bevoegde autoriteiten wanneer hij dit passend vindt.".

D. PARLEMENT

Zie Trb. 1999, 13.

E. BEKRACHTIGING

Zie *Trb.* 2000, 120.1)

Naast de aldaar genoemde hebben nog de volgende staten in overeenstemming met artikel 125, tweede lid, van het Statuut een akte van aanvaarding, bekrachtiging of goedkeuring bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Sierra Leone	15 september 2000
Spanje ²)	24 oktober 2000
Zuid-Afrika	27 november 2000
de Marshalleilanden	7 december 2000
Duitsland ³)	11 december 2000
Oostenrijk ⁴)	28 december 2000
Finland ⁵)	29 december 2000
Argentinië ⁶)	8 februari 2001
Andorra ⁷)	30 april 2001
Paraguay	14 mei 2001
Kroatië	21 mei 2001
Costa Rica	7 juni 2001
Antigua en Barbuda	18 juni 2001
Denemarken ⁸)	21 juni 2001
Zweden ⁹)	28 juni 2001
het Koninkrijk der Nederlanden	17 juli 2001
(voor het gehele Koninkrijk)	v
de Federale Republiek Joegoslavië	6 september 2001
Nigeria	27 september 2001
Liechtenstein ¹⁰)	2 oktober 2001
de Centraal-Afrikaanse Republiek	3 oktober 2001
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het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland ¹¹)	4 oktober 2001 12 oktober 2001 10 november 2001 12 november 2001 12 november 2001 30 november 2001 31 december 2001
Benin	22 januari 2002 30 januari 2002 5 februari 2002 5 februari 2002 5 maart 2002
de Voormalige Joegoslavische Republiek	
Macedonië Cyprus ¹⁷) Panama Bosnië en Herzegovina Bulgarije. Cambodja Democratische Republiek Congo Ierland Jordanië Mongolië Niger. Roemenië ¹⁹) Slowakije ²⁰) Griekenland Uganda Brazilië ²¹) Namibië Bolivia Gambia ²²) Letland ²³)	7 maart 2002 21 maart 2002 11 april 2002 15 mei 2002 14 juni 2002 20 juni 2002 25 juni 2002 27 juni 2002 28 juni 2002 28 juni 2002
Uruguay ²⁴)	28 juni 2002 1 juli 2002 1 juli 2002

¹) De regering van Nieuw-Zeeland heeft op 7 september 2000 medegedeeld dat de bekrachtiging van het Statuut door Nieuw-Zeeland op 7 september 2000 vooralsnog niet van toepassing is op Tokelau.

²) Onder de volgende verklaringen:
"In relation to article 87, paragraph 1, of the Statute, the Kingdom of Spain declares that, without prejudice to the fields of competence of the Ministry of Foreign Affairs, the Ministry of Justice shall be the competent authority to transmit requests for cooperation made by the Court or addressed to the Court.

In relation to article 87, paragraph 2, of the Statute, the Kingdom of Spain declares that requests for cooperation addressed to it by the Court and any supporting documents must be in Spanish or accompanied by a translation into Span-

Spain declares its willingness to accept at the appropriate time, persons sentenced by the International Criminal Court, provided that the duration of the sentence does noet exceed the maximum stipulated for any crime under Spanish

³) Onder de volgende verklaringen: "The Federal Republic of Germany declares, pursuant to article 87 (1) of the Rome Statute, requests from the Court can also be transmitted directly to the Federal Ministry of Justice or an agency designated by the Federal Ministry of Justice in an individual case. Requests to the Court can be transmitted directly from the Federal Ministry of Justice or, with the Ministry's agreement, from another competent agency to the Court.

The Federal Republic of Germany further declares, pursuant to article 87 (2) of the Rome Statute, that requests for cooperation to Germany and any documents supporting the request must be accompanied by a translation into German.".

4) Onder de volgende verklaring:

"Pursuant to article 87, paragraph 2 of the Rome Statute the Republic of Austria declares that requests for cooperation and any documents supporting the requests shall be in or be accompanied by a translation into the German lan-

5) Onder de volgende verklaringen:

"Pursuant to article 87 (1) (a) of the Statute, the Republic of Finland declares that requests for cooperation shall be transmitted either through the diplomatic channel or directly to the Ministry of Justice, which is the authority competent to receive such requests. The Court may also, if need be, enter into direct contact with other competent authorities of Finland. In matters relating to requests for surrender the Ministry of Justice is the only competent authority. Pursuant to article 87 (2) of the Statute, the Republic of Finland declares that requests from the Court and any documents supporting such requests shall be submitted either in Finnish or Swedish, which are the official languages of Finland, or in English which is one of the working languages of the Court."

6) Onder de volgende verklaring:
"With regard to article 87, paragraph 2, of the Statute, the Argentine Republic hereby declares that requests for cooperation coming from the Court, and any accompanying documentation, shall be in Spanish or shall be accompanied by a translation into Spanish.".

7) Onder de volgende verklaringen:
"With regard to article 87, paragraph 1, of the Rome Statute of the International Criminal Court, the Principality of Andorra declares that all requests for cooperation made by the Court under part IX of the Statute must be transmitted through the diplomatic channel.

With regard to article 87, paragraph 2, of the Rome Statute of the International Criminal Court, the Principality of Andorra declares that all requests for cooperation and any supporting documents that it receives from the Court must, in accordance with article 50 of the Statute establishing Arabic, Chinese, English, French, Russian and Spanish as the official languages of the Court, be drafted in French or Spanish or accompanied, where necessary, by a translation into one of these languages.

With regard to article 103, paragraph 1 (a) and (b) of the Rome Statute of the International Criminal Court, the Principality of Andorra declares that it would, if necessary, be willing to accept persons of Andorran nationality sentenced by the Court, provided that the sentence imposed by the Court was enforced in accordance with Andorran legislation on the maximum duration of sentences.".

8) Onder de volgende verklaringen:

"Pursuant to article 87 (1) of the Statute, Denmark declares that requests from the Court shall be transmitted through the diplomatic channel or directly to the Ministry of Justice, which is the authority competent to receive such requests.

Pursuant to article 87 (2) of the Statute, Denmark declares that requests from the Court for cooperation and any documents supporting such requests shall be submitted either in Danish which is the official language of Denmark or in English, which is one of the working languages of the Court."

9) Onder de volgende mededeling en verklaringen:

"In connection with the deposit of its instrument of ratification of the Rome Statute of the International Criminal Court and, with regard to the war crimes specified in Article 8 of the Statute which relate to the methodes of warfare, the Government of the Kingdom of Sweden would like to recall the Advisory Opinion given by the International Court of Justice on 8 july 1996 on the Legality of the Threat or Use of Nuclear Weapons, and in particular paragraphs 85 to 87 thereof, in which the Court finds that there can be no doubt as to the applicability of humanitarian law to nuclear weapons.

With regard to Article 87, paragraph 1, of the Rome Statute of the International Criminal Court, the Kingdom of Sweden declares that all requests for cooperation made by the Court under part IX of the Statute must be transmitted through

the Swedish Ministry of Justice.

With regard to Article 87, paragraph 2, of the Rome Statute of the International Criminal Court, the Kingdom of Sweden declares that all requests for cooperation and any supporting documents that it receives from the Court must be drafted in English or Swedish, or accompanied, where necessary, by a translation into one of these languages."

10) Onder de volgende verklaringen:

"Declaration pursuant to article 87, paragraph 1 (a) of the Statute, concerning the central authority:

Requests of the Court made pursuant to article 87, paragraph 1 (a) of the Statute, shall be transmitted to the central authority for cooperation with the International Criminal Court, namely the Ministry of Justice of the Government of the Principality of Liechtenstein. Declaration pursuant to article 87, paragraph 1 (a) of the Statute, concerning direct service of documents:

Pursuant to article 87, paragraph 1 (a) of the Statute, the Court may serve in decisions and other records or documents upon recipients in the Principality of Liechtenstein directly by mail. A summons to appear before the Court as a witness or expert shall be accompanied by the Rule of Procedure and Evidence of the Court on self-incrimination; this Rule shall be given to the person concerned in a language that the person understands.

Declaration pursuant to article 87, paragraph 2 of the Statute, concerning the

official language:

The official language in the sense of article 87, paragraph 2 of the Statute is German. Requests and supporting documentation shall be submitted in the official language of the Principality of Liechtenstein, German, or translated into German.

Declaration pursuant to article 103, paragraph 1 of the Statute:

Pursuant to article 103, paragraph 1 of the Statute, the Principality of Liechtenstein declares its willingness to accept persons sentenced to imprisonment by the Court, for purposes of execution of the sentence, if the persons are Liechtenstein citizens or if the persons' usual residence is in the Principality of Liechtenstein."

11) Onder de volgende verklaringen:

"The United Kingdom understands the term "the established framework of international law", used in article 8 (2) (b) and (e), to include customary international law as established by State practice and opinio iuris. In that context the United Kingdom confirms and draws to the attention of the Court its views as expressed, inter alia, in its statements made on ratification of relevant instruments of international law, including the Protocol Additional to the Geneva Conventions of 12th August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8th June 1977.

The United Kingdom declares, pursuant to article 87 (2) of the Statute, that requests for co-operation, and any documents supporting the request, must be in the English language.".

¹²) Onder de volgende verklaring:

- "- Les demandes de coopération émanant de la Cour en vertu de l'art. 87, par. 1, let. A, du Statut sont transmisses au service central de coopération avec la Cour pénale internationale de l'Office fédéral de la justice.
- Les langues officielles au sens de l'art. 87, par. 2, du statut sont l'allemand, le français et l'italien.
- La Cour peut notifier ses décisions et autres actes de procédure ou documents directement à leur destinataire en Suisse par voie postale. La citation à comparaître devant la Cour en qualité de témoin ou d'expert doit être accompagnée de la disposition du Règlement de procédure et de preuve de la Cour concernant l'auto-incrimination; cette disposition doit être remise à la personne concernée dans une langue qu'elle est à même de comprendre.
- Conformément à l'art. 103, par. 1, du Statut, la Suisse déclare être prête à prendre en charge l'exécution des peines privatives de liberté infligées par la Cour à des ressortissants suisses ou à des personnes ayant leur résidence habituelle en Suisse.".

13) Onder de volgende verklaring:

"In accordance with Article 87 paragraph 2 of the Statute the Republic of Poland declares that applications on cooperation submitted by Court and documents added to them shall be made in Polish language." (vertaling).

14) Onder de volgende verklaring:

"... The Government of the Republic of Hungary makes the following declaration in relation to Article 87 of the Statute of the International Criminal Court (Rome 17 July 1998):

Requests of the Court for cooperation shall be transmitted to the Government of the Republic of Hungary through diplomatic channel. These requests for cooperation and any documents supporting the request shall be made in English.".

¹⁵) Onder de volgende verklaringen:

"Pursuant to Article 87, paragraph 1 of the Statute the Republic of Estonia declares that the requests from the International Criminal Court shall be transmitted either through the diplomatic channels or directly to the Public Prosecutor's Office, which is the authority to receive such requests. Pursuant to 87, paragraph 2 of the Statute the Republic of Estonia declares that requests from the Interna-

tional Criminal Court and any documents supporting such requests shall be submitted either in Estonian which is the official language of the Republic of Estonia or in English which is one of the working languages of the International Crimi-

16) Onder de volgende verklaringen: "The Portuguese Republic declares the intention to exercise its jurisdictional powers over every person found in the Portuguese territory, that is being prosecuted for the crimes set forth in article 5, paragraph 1 of the Rome Statute of the International Criminal Court, within the respect for the Portuguese criminal legislation. With regard to article 87, paragraph 2 of the Rome Statute of the International Criminal Court, the Portuguese Republic declares that all requests for cooperation and any supporting documents that it receives from the Court must be drafted in Portuguese or accompanied by a translation into Portuguese.".

¹⁷) Onder de volgende verklaringen:

"1. Pursuant to article 87 (1) of the Rome Statute of the International [Criminal] Court, the Republic of Cyprus declares that requests from the Court may also be transmitted directly to the Ministry of Justice and Public Order.

2. Pursuant to article 87 (2) of the Rome Statute of the International Criminal Court, the Republic of Cyprus declares that requests from the Court for cooperation and any documents supporting them shall be transmitted also in English, which is one of the working languages of the Court.".

18) Onder de volgende verklaring:

"Pursuant to article 87, paragraph 1 (a) of the Rome Statute of the International Criminal Court, requests for cooperation issued by the Court shall be transmitted to the Government Procurator's Office of the Democratic Republic of the Congo;

For any request for cooperation within the meaning of article 87, paragraph 1 (a) of the Statute, French shall be the official language.".

19) Onder de volgende verklaringen:

"1. With reference to article 87 paragraph 1 (a) of the Statute, the Ministry of Justice is the Romanian authority competent to receive the requests of the International Criminal Court, to send them immediately for resolution to the Romanian judicial competent bodies, and to communicate to the International Criminal Court the relevant documents.

2. With reference to article 87 paragraph 2 of the Statute, the requests of the International Criminal Court and the relevant documents shall be transmitted in the English language, or accompanied by official translations in this language."

²⁰) Onder de volgende verklaringen:

"Pursuant to Article 87, paragraph 2 of the Statute the Slovak Republic declares that requests from the Court for cooperation and any documents supporting such requests shall be submitted in English which is one of the working languages of the Court along with the translation into Slovak which is the official language of the Slovak Republic.

Pursuant to Article 103, paragraph 1 (b) of the Statute the Slovak Republic declares that it would accept, if necessary, persons sentenced by the Court, if the persons are citizens of the Slovak Republic or have a permanent residence in its territory, for purposes of execution of the sentence of imprisonment and at the same time it will apply the principle of conversion of sentence imposed by the Court."

21) Onder de volgende verklaring:

"... with regard to article 87, paragraph 2 of the said Statute, the official lan-

guage of the Federative Republic of Brazil is Portuguese and that all requests for cooperation and any supporting documents that it receives from the Court must be drafted in Portuguese or accompanied by a translation into Portuguese.".

²²) Onder de volgende verklaring:

"Pursuant to article 87 (1) of the Statute, the Republic of the Gambia declares that requests from the Court shall be transmitted through the diplomatic channel or directly to the Attorney General's Chambers and the Department of State for

Justice, which is the authority competent to receive such request.

Pursuant to article 87 (2) of the Statute, the Republic of the Gambia declares that requests from the Court and any document supporting such requests shall be in English which is one of the working languages of the Court and the official language of the Republic of the Gambia.".

²³) Onder de volgende verklaring:

"Pursuant to article 87, paragraph 2 of the Rome Statute of the International Criminal Court the Republic of Latvia declares that requests for cooperation and any documents supporting the request shall either be in or accompanied by a translation into the Latvian language.".

²⁴) Onder de volgende interpretatieve verklaring:

"As a State party to the Rome Statute, the Eastern Republic of Uruguay shall ensure its application to the full extent of the powers of the State insofar as it is competent in that respect and in strict accordance with the Constitutional provisions of the Republic.

Pursuant to the provisions of part 9 of the Statute entitled "International cooperation and judicial assistance", the Executive shall within six months refer to the Legislature a bill establishing the procedures for ensuring the application of the Statute.".

25) Onder de volgende verklaring: "The Government of Australia, having considered the Statute, now hereby ratifies the same, for and on behalf of Australia, with the following declaration, the terms of which have full effect in Australian law, and which is not a reservation:

Australia notes that a case will be inadmissible before the International Criminal Court (the Court) where it is being investigated or prosecuted by a State. Australia reaffirms the primacy of its criminal jurisdiction in relation to crimes within the jurisdiction of the Court. To enable Australia to exercise its jurisdiction effectively, and fully adhering to its obligations under the Statute of the Court, no person will be surrendered to the Court by Australia until it has had the full oppor-tunity to investigate or prosecute any alleged crimes. For this purpose, the procedure under Australian law implementing the Statute of the Court provides that no person can be surrendered to the Court unless the Australian Attorney-General issues a certificate allowing surrender. Australian law also provides that no person can be arrested pursuant to an arrest warrant issued by the Court without a certificate from the Attorney-General.

Australia further declares its understanding that the offences in Article 6, 7 and 8 will be interpreted and applied in a way that accords with the way they are implemented in Australian domestic law."

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F. TOETREDING

In overeenstemming met artikel 125, derde lid, van het Statuut heeft de volgende staat een akte van toetreding bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

G. INWERKINGTREDING

De bepalingen van het Statuut zijn ingevolge artikel 126, eerste lid,

van het Statuut op 1 juli 2002 in werking getreden.
Wat het Koninkrijk der Nederlanden betreft, geldt het Statuut voor het gehele Koninkrijk.

J. GEGEVENS

Zie Trb. 1999, 13.

Verwijzigingen

: Handvest der Verenigde Naties; Titel

San Francisco, 26 juni 1945

Laatste Trb. : Trb. 2001, 179

Uitgegeven de zesentwintigste juli 2002.

De Minister van Buitenlandse Zaken,

J. G. DE HOOP SCHEFFER

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